

| SOLICITATION/CONTRACT | | | | 1. AWARD CONTRACT AS A TATED ORDER UNDER DPAS (13 CFR 101) | | RATING | | PAGE 1 OF 29 | | | | | | | | | | | | | |
|---|-----------------------------------|---|----------|--|------------|---|--|---|--|--------------|-----------------------------------|--------------|----------|----------------|------------|--|--|--|--|--|--|
| BIDDER/OFFEROR TO COMPLETE BLOCKS 11, 13, 15, 21, 22, & 27. | | | | | | | | | | | | | | | | | | | | | |
| 2. CONTRACT NO. 9637 98 D6002 | | 3. AWARD EFFECTIVE DATE 28 SEP 1998 | | 4. SOLICITATION NUMBER F08637 97 R6009 | | 5. SOLICITATION TYPE <input type="checkbox"/> SEALED BIDS (FBI) <input checked="" type="checkbox"/> NEGOTIATED (RFP) | | 6. SOLICITATION ISSUE DATE 8 Jun 98 | | | | | | | | | | | | | |
| 7. CONTRACTING SQUADRON/LGCX 501 Illinois Ave, Suite 5 Tyndall AFB, FL 32403-5526 | | | | 8. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED <input type="checkbox"/> SET ASIDE: % FOR <input type="checkbox"/> SMALL BUSINESS SIC: 8711 SET STANDARD: \$20 Million | | 9. LABOR SURPLUS AREA CONCERNS <input type="checkbox"/> COMBINED SMALL BUSINESS & LABOR SURPLUS AREA CONCERNS <input type="checkbox"/> OTHER | | | | | | | | | | | | | | | |
| 9. AGENCY USES Sealed offerors will be received at the issuing office until 3:00PM Central Time on 10 Aug 1998 . Late offerors are subject to late proposal provisions incorporated herein. All offerors are subject to such provisions, representations, and specifications as are attached or incorporated by reference. | | | | | | | | | | | | | | | | | | | | | |
| 10. ITEMS TO BE PURCHASED (BRIEF DESCRIPTION) <input type="checkbox"/> SUPPLIES <input checked="" type="checkbox"/> SERVICES Region One Energy Savings Performance Contract | | | | | | | | | | | | | | | | | | | | | |
| 11. IF OFFER IS ACCEPTED BY THE GOVERNMENT WITHIN _____ CALENDAR DAYS 60 CALENDAR DAYS UNLESS OFFEROR INSERTS A DIFFERENT PERIOD FROM THE DATE SET FORTH IN BLK 9 ABOVE, THE CONTRACTOR AGREES TO HOLD ITS OFFERED PRICES FIRM OR THE ITEMS SOLICITED HEREIN AND TO ACCEPT ANY RESULTING CONTRACT SUBJECT TO THE TERMS AND CONDITIONS STATED HEREIN. | | | | 12. ADMINISTERED BY 325th Contracting Squadron/LGCX 501 Illinois Ave, Suite 5 Tyndall AFB, FL 32403-5526 CODE F08637 | | | | | | | | | | | | | | | | | |
| 13. CONTRACTOR OFFEROR CODE OR7F1 FACILITY CODE OR7F1 NORESCO 111 Speen Street Framingham, MA 01701 | | | | 14. PAYMENT WILL BE MADE BY To be cited in individual task orders. CODE _____ | | | | | | | | | | | | | | | | | |
| TELEPHONE NO. 508-875-2252 DUNS NO. 606727402 <input type="checkbox"/> CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER | | | | SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK: | | | | | | | | | | | | | | | | | |
| 15. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION <input type="checkbox"/> (C) <input type="checkbox"/> (D) <input type="checkbox"/> (E) | | | | 16. U.S.C. 2304 <input type="checkbox"/> (C) <input type="checkbox"/> (D) <input type="checkbox"/> (E) 41 U.S.C. 252 <input type="checkbox"/> (C) <input type="checkbox"/> (D) <input type="checkbox"/> (E) | | | | | | | | | | | | | | | | | |
| <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>17. ITEM NO.</th> <th>18. SCHEDULE OF SUPPLIES/SERVICES</th> <th>19. QUANTITY</th> <th>20. UNIT</th> <th>21. UNIT PRICE</th> <th>22. AMOUNT</th> </tr> </thead> <tbody> <tr> <td colspan="6" style="height: 150px; vertical-align: top;"> <p>See Schedule</p> <p>* Acceptance period in Block 11 above is hereby changed to read 120 days.</p> </td> </tr> </tbody> </table> | | | | | | | | | | 17. ITEM NO. | 18. SCHEDULE OF SUPPLIES/SERVICES | 19. QUANTITY | 20. UNIT | 21. UNIT PRICE | 22. AMOUNT | <p>See Schedule</p> <p>* Acceptance period in Block 11 above is hereby changed to read 120 days.</p> | | | | | |
| 17. ITEM NO. | 18. SCHEDULE OF SUPPLIES/SERVICES | 19. QUANTITY | 20. UNIT | 21. UNIT PRICE | 22. AMOUNT | | | | | | | | | | | | | | | | |
| <p>See Schedule</p> <p>* Acceptance period in Block 11 above is hereby changed to read 120 days.</p> | | | | | | | | | | | | | | | | | | | | | |
| ACCOUNTING AND APPROPRIATION DATA 1. BE CITED IN INDIVIDUAL TASK ORDERS. | | | | | | 24. TOTAL AWARD AMOUNT (FOR GOVT. USE ONLY) Estimated \$200,000,000.00 | | | | | | | | | | | | | | | |
| CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN TWO (2) COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY CONTINUATION SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN. | | | | | | 25. AWARD OF CONTRACT: YOUR OFFER ON SOLICITATION NUMBER SHOWN IN BLOCK 4 INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS: 0001 and 0002 and 0003 | | | | | | | | | | | | | | | |
| 26. UNITED STATES OF AMERICA SIGNATURE OF CONTRACTING OFFICER Robert R. Kelley | | | | | | 27. DATE SIGNED 28 SEP 1998 | | | | | | | | | | | | | | | |
| 28. DATE SIGNED 6/26/98 | | | | | | 29. NAME OF CONTRACTING OFFICER ROBERT R. KELLEY | | | | | | | | | | | | | | | |
| 30. NAME OF OFFEROR/CONTRACTOR John Rizzo, V. Pres. | | | | | | 31. DATE SIGNED 28 SEP 1998 | | | | | | | | | | | | | | | |

PART I - THE SCHEDULE
SECTION B
SUPPLIES OR SERVICES AND PRICES/COSTS

1.0 SUPPLIES OR SERVICES: The Energy Service Company (ESCO), as the energy service contractor, shall furnish energy conservation measures (ECMs) (Ref. Statement of Work para 4.6) to Air Force installations located in Florida, Georgia, Alabama, Tennessee, Mississippi, Louisiana, hereinafter referred to as Region One. In doing so, the ESCO shall furnish all labor, tools, equipment, and material necessary to identify potential energy efficiency improvements and to implement all approved ECMs. This contract will involve "turn-key" retrofit services which, in addition to project financing, will include energy conservation audits, ECM designs, energy efficient equipment installation, and maintenance services for most ECMs on a shared-cost basis. The Government will make monthly payments, following acceptance by the Government, based on a savings guarantee provided by the ESCO which will be composed of avoided capital investment, energy, demand, and operating and maintenance costs. Avoided capital investment costs are defined as programmed expenditures for replacement equipment for which appropriations or funding has been approved. For purposes of this contract, avoided operating and maintenance costs are defined as those savings attributable to existing equipment maintenance contracts for those facilities described under the proposed task order. Payment for task orders will only be made from energy/water/sewage savings with the following exceptions: (a) capital investment savings may be included in a project the base is committed to funding during the time of the proposed task order; and, (b) there is an existing service contract(s) for operations and maintenance. Implementation of energy conservation and efficiency improvements under this contract is a three-phased program that consists of:

- (a) Phase I - Preliminary Site Survey;
- (b) Phase II - Facility Energy Audit and Economic Analysis;
- (c) Phase III - Project Implementation (design, engineering, equipment procurement, financing and installation); and Operation/Maintenance.

Phase I and Phase II may be directed by letter and the work shall not be separately priced. A contract task order, as authorized by Schedule B-1, CLIN 0003, shall be the vehicle for acquiring Phase III work. The purpose of this contract is to provide a previously negotiated contract from which Air Force installations located in Region One can readily definitize a contract task order (DD Form 1155 or SF 1449) for each facility or group of facilities.

1.1 The scope of this contract includes energy savings measures, including, but not restricted to electrical, gas, water, steam, and coal which may be accomplished by a privately financed ESPC on buildings and facilities of those Air Force installations located in Region One. Energy conservation measures or efficiency improvements for electrical and/or mechanical equipment as well as infrastructure may be proposed by the ESCO for Government consideration and approval/disapproval. The Government will consider all ESCO proposals that have a ten year, or less, payback (See Section C, paragraph 4.8). It is not envisioned that energy system retrofits, facility construction, or energy system renovations or replacements, acquired through standard procurement procedures, using Congressionally appropriated funds, will be accomplished under this contract except as noted below. Utility sponsored

Demand Side Management (DSM) agreements in place with local utility service providers at the time this ESPC is awarded will

SECTION B
SUPPLIES OR SERVICES AND PRICES/COSTS (Continued)

continue and facilities designated in those agreements will be excluded from this contract for the duration of the DSM agreement. At no time will a proposal received under a Phase II Report of this contract be competed with the DSM or any other contractor.

CLIN 0001: Phase I - Preliminary Site Survey (IAW Statement of Work, paragraph 2.1):

NOTE: Phase I work shall not be separately priced. The ESCO will bear the cost for performing Phase I work and may recover that cost ONLY if the work proceeds to Phase III.

CLIN 0002: Phase II - Facility Energy Audit and Economic Analysis (IAW Statement of Work, paragraph 2.2):

NOTE: Phase II work shall not be separately priced. The ESCO will bear the cost for performing Phase II work and may recover that cost ONLY if the work proceeds to Phase III.

CLIN 0003: Phase III - ECM Implementation and Operations/Maintenance
(IAW Statement of Work, paragraphs 2.3 and 2.4):

B-1 Clauses and Provisions

(a) Clauses and provisions from the Federal Acquisition Regulation (FAR) and supplements thereto are incorporated in this document by reference and in full text. Those incorporated by reference have the same force and effect as if they were given in full text.

(b) Clauses and provisions in this document will be numbered in sequence, but will not necessarily appear in consecutive order.

(c) Sections K, L and M will be physically removed from any resultant award, but will be deemed to be incorporated, by reference, in that award.

(d) The guaranteed minimum amount is \$50,000 for the contract. The Tyndall AFB Project listed in Section J, Page 29 of the solicitation as Attachment 2 is a sample project and may or may not be awarded.

(e) The contract maximum shall be established as \$200,000,000.00. The contract maximum is the sum total of scheduled Government payments over the life of the contract, inclusive of the total contractor investment (direct labor (including subcontractor markups), materials, and equipment), operations and maintenance costs, finance charges in the form of interest, profit, and overhead. Although interest is an allowable cost, the ESCO shall not be allowed to add any markup to the financing cost. Financing costs shall be a direct pass through cost from the financing institution.

PART I - THE SCHEDULE
SECTION C
DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

The Statement of Work is incorporated as Attachment 1.

PART I - THE SCHEDULE
SECTION E
INSPECTION AND ACCEPTANCE

(e) The contractor shall promptly furnish, at no increase in contract price, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. The Government may charge to the contractor any additional cost of inspection or test when work is not ready at the time specified by the contractor for inspection or test, or when prior rejection makes reinspection or retest necessary. The Government shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.

(f) The contractor shall, without charge, replace or correct work found by the Government not to conform to contract requirements, unless in the public interest the Government consents to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.

(g) If the contractor does not promptly replace or correct rejected work, the Government may--
(1) by contract or otherwise, replace or correct the work and charge the cost to the contractor or (2) terminate for default the contractor's right to proceed.

(h) If, before acceptance of the entire work, the Government decides to examine already completed work by removing it or tearing it out, the contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or nonconforming in any material respect due to the fault of the contractor or its subcontractors, the contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet contract requirements, the Contracting Officer shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.

(i) Unless otherwise specified in the contract, the Government shall accept, as promptly as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the Government's rights under any warranty or guarantee.

E-34. Inspection and Acceptance
(IAW FAR 46.401(b) and 46.503)

Inspection and Acceptance of all work and services performed hereunder shall be by the Contracting Officer's Representative (COR) designated on individual task orders.

The Contracting Officer has designated technical management of this contract to the COR. COR duties will be performed as specified in each task order.

PART I - THE SCHEDULE
SECTION F
DELIVERIES AND PERFORMANCE

F-1. Period of Performance

(IAW FAR 11.401(a)):

Performance under this contract shall be for twenty-five (25) years from date of contract award. All task orders must be completed within the twenty-five (25) year contract period. Performance period for completing energy system retrofits and the sharing period for determining monthly ESCO payments shall be negotiated in each contract task order.

F-2. Place of Performance:

(IAW FAR 11.401(a)):

Work performed under this contract may be ordered by any Air Force installation within the states making up Region One as specified in individual task orders.

F-3. Pre-Performance Conference:

The contractor shall, at the option of the Contracting Officer, meet in conference with the COR and Contracting Officer to discuss and develop mutual understandings relative to contract performance prior to initiating any Phase I or Phase II work. The contractor shall, at the option of the Contracting Officer, meet in conference with the COR and Contracting Officer to discuss and develop mutual understandings relative to contract performance prior to initiating Phase III work on each contract task order.

F-26. 52.242-15 Stop Work Order (AUG 1989)

(IAW FAR 42.1305(b)(1))

(a) The Contracting Officer may, at any time, by written order to the contractor, require the contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work order is delivered to the contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either-

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the contractor shall resume work. The Contracting Officer shall make on

equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if-

PART I - THE SCHEDULE
SECTION F
DELIVERIES AND PERFORMANCE

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and,

(2) The contractor asserts its rights to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon a proposal submitted at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

F-29. 52.242-17 Government Delay of Work (APR 1984)
(IAW FAR 42.1305(d))

(a) If the performance of all or any part of the work of this contract is delayed or interrupted (1) by an act of the Contracting Officer in the administration of this contract that is not expressly or impliedly authorized by this contract, or (2) by a failure of the Contracting Officer to act within the time specified in this contract, or within a reasonable time if not specified, an adjustment (excluding profit) shall be made for any increase in the cost of performance of this contract caused by the delay or interruption and the contract shall be modified in writing accordingly. Adjustment shall also be made in the delivery or performance dates and any other contractual term or condition affected by the delay or interruption. However, no adjustment shall be made under this clause for any delay or interruption to the extent that performance would have been delayed or interrupted by any other cause, including the fault or negligence of the contractor, or for which an adjustment is provided or excluded under any other term or condition of this contract.

(b) A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the contractor shall have notified the Contracting Officer in writing of the act or failure to act involved, and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after termination of the delay or interruption, but not later than the day of final payment under the contract.

PART I - THE SCHEDULE
SECTION G
CONTRACT ADMINISTRATION DATA

G-1 ACCOUNTING AND APPROPRIATION DATA

1. **INVOICING INSTRUCTIONS:** The ESCO shall submit invoices as specified in individual task orders.

2. **CONTRACT ADMINISTRATION**

Administration of this contract will be performed by:

325th Contracting Squadron
501 Illinois Ave, Suite 5
Tyndall AFB, FL 32403-5526

Administration of task orders will be performed by the ordering installation.

3. **ACCOUNTING AND FINANCE OFFICE**

Contractor payment procedures for submitting invoices against task orders issued under this contract will be specified in each individual task order.

Accounting and Appropriation data will be cited on individual task orders

4. **REMITTANCE ADDRESS**

If an alternate remittance address is indicated within Block 13 of the Standard Form 1447 then you are requested to identify the alternate address in the space provided below:

PART I - THE SCHEDULE
SECTION H
SPECIAL CONTRACT PROVISIONS

H-3. Provision of Contracting Officer's Authority

(a) No person other than the Procuring Contracting Officer (PCO) shall have the authority to modify the terms of the basic contract. In the event the contractor, or any subcontractor, effects any change to the terms and conditions of the basic contract at the direction of any person other than the PCO, the change will be considered to have been made without authority.

(b) The PCO will delegate authority, in writing, to individual Air Force installations, or activities within the region to place orders against the basic contract. The installation contracting office will have the authority to issue and administer contract task orders. In the event the contractor, or any subcontractor, effects any change to the terms and conditions of the task order at the direction of any person other than the contracting officer, the change will be considered to have been made without authority and no increase will be made in the contract task order amount.

H- 4. Services and Construction Clauses

Since this contract will involve both construction and services type work, the applicability of the Special Contract Requirements contained in this section will be annotated after the requirement in this section (either Services or Construction, or Construction and Services) to indicate which wage determination is applicable.

H-6 Davis Bacon Wage Rates (Construction)

Construction and testing work performed under this contract are subject to the minimum wages requirement of the Davis Bacon Act, see the Davis Bacon Act clause contained in Section I. Davis Bacon work is defined as construction, alteration, or repair (including painting, replacement of glass, and decorating) of all "public buildings or public works". Davis Bacon Wage Decisions containing the minimum required employee wages permissible will be provided by the ordering contracting office at the time Phase I work is directed.

H-7. Service Contract Act Requirements (Services) (41 USC 351-357)

Operations and maintenance services under this contract are subject to the requirements of the Service Contract Act of 1965, as amended, and attention is invited to the obligations of the Contractor under Section 4C of the amended Service Contract Act. The contractor agrees to provide to the

Contracting Officer upon request a copy of any collective bargaining agreement applicable to employees performing on this contract.

Service Contract Act Wage Determinations containing the minimum required employee wages permissible will be provided by the ordering contracting office at the time Phase I work is directed. Phase III operations and maintenance activities are subject to the applicable Service Contract Act Wage Determination that will be provided for each task order.

PART I - THE SCHEDULE
SECTION H
SPECIAL CONTRACT PROVISIONS

H-8. Fire Prevention (Construction and Services)

The ESCO shall insure that all contract employees know how to report a fire. Contractor personnel shall observe all requirements for handling and storage of combustible supplies, materials, waste, and trash. Contractor employees operating critical equipment shall be trained to properly respond during a fire alarm or fire. Welding shall not be accomplished without prior coordination with the COR and approval of the Base Fire Department.

H-11. Information Concerning Performance and Payment Bonds
(Construction)

(a) Within 10 days after issuance of a contract task order, the contractor shall furnish two bonds, each with good and sufficient surety or sureties acceptable to the Government: namely a Performance Bond (Standard Form 25) and a Payment Bond (Standard Form 25A). Bonds shall remain in effect throughout the implementation portion of the task order. The penal sums of each bond will be as follows, but are not required for task orders of \$25,000 or less:

(1) Performance Bond: The penal sum of the performance bonds shall equal 100 percent of the implementation cost, defined as the total estimated ECM Implementation cost as cited in the schedule of the contract task order.

(2) Payment Bond: The penal sum of the performance bonds shall equal 50 percent of the implementation cost, defined as the total estimated ECM Implementation cost as cited in the schedule of the contract task order.

(b) All required bonds will be furnished by the contractor to the Government prior to commencement of task order performance.

(c) In the event of default in the performance of a contract task order, the performance bond shall be used by the Government, to obtain by contract or otherwise and upon such terms and in such a manner which the Contracting Officer may deem appropriate, services to complete the installation of project(s) specified in the contract, or remove the ECM equipment already installed by the ESCO, or subcontractor, and restore the site to its prior condition. The payment bond shall secure the performance and fulfillment of the ESCO's obligations for payment of suppliers and subcontractors.

(d) The bond of any surety company holding a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal bonds will be accepted. Individual sureties will be acceptable if each surety deposits with the Contracting Officer cash, bonds, notes of the United States, or certified check drawn to the order of the Treasurer of the United States, or other such security as the Contracting Officer may deem necessary for the required amount of the guaranty, under the agreement that the collateral so deposited shall remain in the possession and control of the Treasurer of the United States for at least one year after the completion of the construction phase of each task order.

PART I - THE SCHEDULE
SECTION H
SPECIAL CONTRACT PROVISIONS

H-12. Protection of Lien Holder Interest (Services and Construction)
(IAW FAR 52.232-23)

(a) It is recognized that due to the nature of the financing aspect of this type of contract, it may be necessary to finance with private sector funds a significant portion of the contractor's investment in energy conserving equipment. It may be necessary for this indebtedness to be secured by a Mortgage and Security Interest of the Lender in this contract and the contractor equipment referred to herein. To provide necessary protection, of any lien holder's interest, the contractor may be required to assign to the lender its rights under this contract.

(b) Therefore, the Government will consider:

(1) requests for assignment of monies due or to become due under this contract.

(2) a proposed assignment of contract performance in the event the Contractor defaults in contract performance or loan payments to the lender. Requests for assignment of the contract on the same terms and conditions will be approved if the proposed substitute contractor is acceptable to the Government.

(c) A copy of all cure or show cause notices or notices of default will be mailed by the government to the lenders at least 10 days in advance of any termination of this contract. Requests to extend the 10-day cure or show cause response period may be made by the contractor or the lenders.

(d) It is understood and agreed that the Government will not unreasonably withhold approval of requests or proposals submitted under paragraph b(1), b(2) and c above.

H-13. Availability of Utility Services (Construction and Services)

Notwithstanding any provisions in the contract regarding Availability and Use of Utility Services, all reasonable required amounts of water, gas, electricity, etc., essential to contract performance, will be made available from existing systems, outlets, and supplies at no cost to contractor personnel. All temporary connections, outlets, and distribution lines, as may be required, shall be installed and removed by the ESCO at his own expense.

H-17. Contractor Payments (Services)

(a) The Government will begin making payments to the ESCO beginning the month following the first full calendar month after acceptance of the energy conservation measure by the Government. Payments will be structured (a sample payment calculation is provided in paragraph b below) so as to divide the ESCO's share of the guaranteed annual savings into twelve equal, or nearly equal payments. Each year, before the twelfth month's payment is made, a reconciliation will be performed to ensure the guaranteed savings were achieved or exceeded. If the annual reconciliation reveals a shortfall between the guaranteed savings amount and the actual savings achieved for that year, the ESCO shall, by a single payment in the form of a credit on next monthly invoice, or as otherwise specified by the Contracting Officer pay to the Government the difference. Payments will continue for the period agreed to in the

contract task order, up to the remainder of the contract term, except in the case of contract termination for the purpose of default or convenience.

PART I - THE SCHEDULE
SECTION H
SPECIAL CONTRACT PROVISIONS

(b) Payment will be calculated as shown in the following example:

(1) ESCO estimates a savings of \$140,000/year, and

(2) ESCO guarantees a savings of \$120,000/year

(3) ESCO's monthly payment is determined by:

$$\$120,000 \text{ (guaranteed savings)} \div 12 \text{ mo} = \$10,000/\text{mo}$$

H-18.

**Governmental Legislation, Law or
Other Policies**

Because this is a long-term contract, if and when new governmental legislation, law or policy is enacted which may affect this contract, such new legislation, law, or policy may, at the Contracting Officer's discretion, be negotiated and incorporated into the contract.

H-21. **Responsibility for Systems and Equipment** (Construction and Services)

(a) The contractor shall at all times during the term of the contract have full ownership responsibilities of the contractor-furnished systems and equipment. The contractor may modify, replace, or change the systems and equipment during the term of the contract from that originally approved. However, any proposed modification, replacement, or change shall require notification and coordination with the COR and approval of the Contracting Officer. Any such modification, replacement, or change of equipment shall be performed by the contractor at no cost to the Government and shall not interfere with Government operations. Title to all systems and equipment shall vest in the Government upon completion of the contract task order.

(b) As owner, the contractor shall be responsible for all loss or damage to the system's equipment and accessories except that arising out of fault or negligence on the part of the Government or its employees. All taxes and other charges in connection therewith, together with all liability arising out of the negligence of the contractor in the construction, operation, or maintenance of the systems, equipment, and accessories shall be the responsibility of the contractor.

(c) The Government hereby grants to the contractor, all employees and subcontractors, free of any rental, but subject to the limitations specified in this contract, a revocable permit to enter the service location for any proper purpose under this contract, including use of the site or sites agreed upon by the parties hereto for the installation, operation, and maintenance of the contractor-owned equipment located on Government premises.

H-22. **Material Approval Submittals** (Construction and Services)

Each Phase II Report completed by the contractor shall contain details (as required by the Statement of Work) of the equipment the contractor proposes to install. Award of a contract task order is indicative of Contracting Officer approval of the proposed equipment; however, such approval

does not relieve the contractor of responsibility for system operation. If at any time the contractor proposes to install materials or equipment different than those approved at time of task order award, prior approval of the Contracting Officer is required.

PART I - THE SCHEDULE
SECTION H
SPECIAL CONTRACT PROVISIONS

H-23. Installation Regulations (Construction and Services)

The contractor and employees shall be knowledgeable of and observe installation regulations, directives, and instructions applicable to the contractor's operations (i.e., fire, safety, security, energy conservation, environmental, etc.). The COR will make such regulations, directives, and instructions available for contractor review upon request.

H-24. Termination Liability (Construction and Services)

Clause 52.249-2, ALT 1, in Section I, applies to the period of performance preceding commencement of services; clause 52.249-2, also in Section I, applies to the performance period after commencement of services. If either clause is exercised, payment of any termination liability by the Government will be made as expeditiously as possible but is subject to the availability of appropriations.

H-25. Guarantee of Savings to the Agency (Services)

With respect to Title 42, U.S.C. 8287, the ESCO and the installation agrees that since this is a phased task order based contract, and that savings available to share will be determined for each task order and cannot be determined at this stage of contract formation, that the guaranteed saving and annual reconciliation mandated in the Act shall be established in each contract task order.

H-109 REQUIRED INSURANCE (IAW FAR 28.306(b))

Reference FAR clause entitled " **Insurance . . .**" the contractor shall, at its own expense, procure and thereafter maintain the following kinds of insurance with respect to performance under this contract.

a. Workmen's Compensation and Employer's Liability Insurance as required by law except that if this contract is to be performed in a State which does not require or permit private insurance, then compliance with the statutory or administrative requirements in any such State will be satisfactory. The required Workmen's Compensation insurance shall extend to cover employer's liability for accidental bodily injury or death and for occupational disease with a minimum liability limit of **\$100,000**.

b. General Liability Insurance. Bodily injury liability insurance, in the minimum limits of **\$500,000** per occurrence shall be required on the comprehensive form of policy.

c. Automobile Liability Insurance. This insurance shall be required in the comprehensive form of policy and shall provide bodily injury liability and property damage liability covering the operation of all automobiles used in connection with the performance of the contract. At least the minimum limits of

\$200,000 per person and **\$500,000** per occurrence for bodily injury and **\$20,000** per occurrence for property damage shall be required.

H-922

ORGANIZATIONAL CONFLICT OF INTEREST

a. The following restrictions and definitions apply to prevent conflicting roles which may bias the Contractor's judgment or objectivity, or to preclude the Contractor from obtaining an unfair competitive advantage in concurrent or future acquisitions.

(1) Descriptions or definitions:

"Contractor" means the business entity receiving the award of this contract, its parents, affiliates, divisions and subsidiaries.

"Development" means all efforts towards solution of broadly-defined problems. This may encompass research, evaluating technical feasibility proof of design and test, or engineering of programs not yet approved for acquisition or operation.

"Proprietary Information" means all information designated as proprietary in accordance with law and regulation, and held in confidence or disclosed under restriction to prevent uncontrolled distribution. Examples include limited or restricted data, trade secrets. Sensitive financial information, and computer software, and may appear in cost and pricing data or involve classified information.

"System" means the system that is the subject of this contract.

"System Life" means all phases of the system's development, production or support.

"Systems Engineering" means preparing specifications, identifying and resolving interface problems, developing test requirements, evaluating test data, and supervising design.

"Technical Direction" means developing work statements, determining parameters, directing other Contractors' operations, or resolving technical controversies.

(2) Restrictions: The Contractor shall perform systems engineering and/or technical direction, but will not have overall contractual responsibility for the system's development, integration assembly and checkout production. The parties recognize that the Contractor shall occupy a highly influential and responsible position in determining the system's basic concepts and supervising their execution by other Contractors. The Contractor's judgment and recommendations must be objective, impartial, and independent. To avoid the prospect of the Contractor's judgment or recommendations being influenced by its own products or capabilities, it is agreed that the Contractor is precluded for the life of the system from award of a DoD contract to supply the system or any of its major components, and from acting as a subcontractor or consultant to a DoD supplier for the life of any of its major components.

b. The Contractor may gain access to proprietary information of other companies during contract performance. The Contractor agrees to enter into company-to-company agreements to (1) protect another company's information from unauthorized use or disclosure for as long as it is considered proprietary by the other company and (2) to refrain from using the information for any purpose other than that for which it was furnished. For information purposes, the Contractor shall furnish copies of these agreements to the Contracting Officer. These agreements are not intended to protect information

which is available to the Government or to the Contractor from other sources and furnished voluntarily without restriction.

c. The above restrictions shall be included in all subcontracts, teaming arrangements, and other agreements calling for performance of work which is subject to the organizational conflict of interest restrictions identified in this clause, unless excused in writing by the Contracting Officer.

PART II - CONTRACT CLAUSES
SECTION I
CONTRACT CLAUSES

FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE (JUN 1988)
(IAW FAR 52.107(b))

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

| <u>NO</u> | <u>FAR</u> | <u>CLAUSE TITLE</u> | <u>DATE</u> |
|------------------|-------------------|---|--------------------|
| I-11 | 52.202-1 | Definitions (IAW FAR 2.201) | (OCT 1995) |
| I-19 | 52.203-3 | Gratuities (IAW FAR 3.202) | (APR 1984) |
| I-20 | 52.203-5 | Covenant Against Contingent Fees (IAW FAR 3.404) | (APR 1984) |
| I-21 | 52.203-6 | Restrictions on Subcontractor Sales to the Government (IAW FAR 3.503-2) | (JUL 1995) |
| I-22 | 52.203-7 | Anti-Kickback Procedures (IAW FAR 3.502-3) | (JUL 1995) |
| I-23 | 52.203-8 | Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (IAW FAR 3.104.9(a)) | (JAN 1997) |
| I-25 | 52.203-10 | Price or Fee Adjustment for Illegal or Improper Activity (IAW FAR 3.104-9(b)) | (JAN 1997) |
| I-25C | 52.203-12 | Limitation on Payments to Influence Certain Federal Transactions (IAW FAR 3.808(b)) | (JUN 1997) |
| I-27 | 52.204-2 | Security Requirements (IAW FAR 4.404(a)) | (AUG 1996) |
| I-39 | 52.204-4 | Printing/Copying Double-Sided On Recycled Paper (IAW FAR 4.304) | (JUN 1996) |
| I-78 | 52.209-6 | Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (IAW FAR 9.409(b)) | (JUL 1995) |
| I-100 | 52.211-10 | Commencement, Prosecution, and Completion of Work (IAW FAR 11.404(b)) (a) To be stated in task order | (APR 1984) |

(c) To be stated in task order

PART II - CONTRACT CLAUSES
SECTION I
CONTRACT CLAUSES

| | | | |
|--------|------------------|--|------------|
| I-102 | 52.211-15 | Defense Priority and Allocation Requirements (IAW FAR 11.604(b)) | (SEP 1990) |
| I-128 | 52.215-2 | Audit and Records--Negotiation (IAW FAR 15.209(b)(1)) | (AUG 1996) |
| I-129G | 52.215-8 | Order of Precedence - Uniform Contract Format (IAW FAR 15.209 (h)) | (OCT 1997) |
| I-170 | 52.216-18 | Ordering (IAW FAR 16.506(a)) | (OCT 1995) |

for the purposes of this clause the blanks(s) are completed as follows:

(a) issued from the effective date of contract through 31 March 2023

| | | | |
|-------|------------------|---|------------|
| I-171 | 52.216-19 | Order Limitations (IAW FAR 16.506(b)) | (OCT 1995) |
|-------|------------------|---|------------|

For the purposes of this clause the blank(s) are completed as follows:

- (a) \$1,000.00
- (b)1) \$10,000,000.00
- (b)2) \$25,000,000.00
- (b)3) 30 Days
- (d) 15 Days

| | | | |
|-------|------------------|---|------------|
| I-178 | 52.216-22 | Indefinite Quantity (IAW FAR 16.506(3)) | (OCT 1995) |
|-------|------------------|---|------------|

For the purposes of this clause the blanks(s) are completed as follows:

(d) Contractor shall not be required to make any deliveries under this contract after contract expiration (not to exceed 25 years).

| | | | |
|--------|-----------------|---|------------|
| I-190 | 52.217-2 | Cancellation Under Multiyear Contracts (IAW FAR 17.109(a)) (Note: Termination schedules will be in each task order.) | (OCT 1997) |
| I-214 | 52.219-8 | Utilization of Small, Small Disadvantaged Business and Woman-Owned Small Business Concerns (IAW FAR 19.708(a)) | (JUN 1997) |
| I-216C | 52.219-9 | Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan | (AUG 1996) |

| | | | |
|-------|------------------|---|------------|
| I-223 | 52.219-16 | (IAW FAR 19.708(b)(1)) Liquidated Damages-Subcontracting Plan (IAW FAR 19.708(b)(2)) | (OCT 1995) |
| I-247 | 52.222-3 | Convict Labor (IAW FAR 22.202) | (AUG 1996) |

PART II - CONTRACT CLAUSES
SECTION I
CONTRACT CLAUSES

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|--------|------------------|---|------------|
| I-248 | 52.222-4 | Contract Work Hours and Safety Standards Act- Overtime Compensation (IAW FAR 22.305) | (JUL 1995) |
| I-250 | 52.222-6 | Davis-Bacon Act (IAW FAR 22.407(a)) | (FEB 1995) |
| I-251. | 52.222-7 | Withholding of Funds (IAW FAR 22.407(a)(2)) | (FEB 1988) |
| I-252. | 52.222-8 | Payrolls and Basic Records (IAW FAR 22.407(a)(3)) | (FEB 1988) |
| I-253. | 52.222-9 | Apprentices and Trainees (IAW FAR 22.407(a)(4)) | (FEB 1988) |
| I-254. | 52.222-10 | Compliance With Copeland Act Requirements (IAW FAR 22.407(a)(5)) | (FEB 1988) |
| I-255. | 52.222-11 | Subcontracts (Labor Standards) (IAW FAR 22.407(a)(6)) | (FEB 1988) |
| I-256. | 52.222-12 | Contract Termination--Debarment (IAW FAR 22.407(a)(7)) | (FEB 1988) |
| I-257. | 52.222-13 | Compliance With Davis-Bacon and Related Act Regulations (IAW FAR 22.407(a)(8)) | (FEB 1988) |
| I-258. | 52.222-14 | Disputes Concerning Labor Standards (IAW FAR 22.407(a)(9)) | (FEB 1988) |
| I-259 | 52.222-15 | Certification of Eligibility (IAW FAR 22.407(a)) | (FEB 1988) |
| I-264 | 52.222-26 | Equal Opportunity (IAW FAR 22.810(e)) | (APR 1984) |
| I-266 | 52.222-27 | Affirmative Action Compliance Requirements (IAW FAR 22.810(f)) | (APR 1984) |
| I-267 | 52.222-28 | Equal Opportunity Preaward Clearance of Subcontracts (IAW FAR 22.810(g), 44.204(a), (b), and (c)) | (APR 1984) |
| I-274 | 52.222-35 | Affirmative Action For Special Disabled And Vietnam Era Veterans | (APR 1984) |

- I-276 **52.222-36** (IAW FAR 22.1308(a)(1), and DFARS 22.1308(a)(1))
Affirmative Action For Handicapped Workers (APR 1984)
 (IAW FAR 22.1408(a))
- I-278 **52.222-37** **Employment Reports On Special Disabled Veterans** (JAN 1988)
And Veterans Of The Vietnam Era
 (IAW FAR 22.1308(b))
- I-283 **52.222-41** **Service Contract Act of 1965, As Amended** (MAY 1989)
 IAW FAR 22.1006(a)

PART II - CONTRACT CLAUSES
SECTION I
CONTRACT CLAUSES

- I-284 **52.222-42** **Statement of Equivalent Rates for Federal Hires** (MAY 1989)
 (IAW FAR 22.1006(b))

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

This statement is for information only: It is not a Wage Determination:

| <u>Employee Class</u> | <u>Monetary Wage & Fringe Benefits</u> |
|---|--|
| Computer Operator | \$* |
| Secretarial | \$* |
| Electrician Maintenance | \$* |
| Heating, Refrigeration and A/C Mechanic | \$ * |
| Sheet Metal Worker | \$ * |
| Draftsman | \$ * |
| Electronics Technician III | \$ * |
| Truck Driver, Medium | \$ * |
| Laborer | \$* |

* Will be provided by the ordering installation prior to negotiation of the first task order for that installation.

- I-285 **52.222-43** **Fair Labor Standards Act and Service** (MAY 1989)
Contract Act--Price Adjustment
(Multiple-Year and Option Contracts)
 (IAW FAR 22.1006(c)(1))
- I-292 **52.223-2** **Clean Air and Water** (APR 1984)

| | | | |
|--------|------------------|--|------------|
| I-294 | 52.223-5 | (IAW FAR 23.105(b)) Pollution Prevention And Right-To-Know Information | (MAR 1997) |
| I-295 | 52.223-6 | (IAW FAR 23.1005) Drug-Free Workplace | (JAN 1997) |
| I-297E | 52.223-14 | (IAW FAR 23.505) Toxic Chemical Release Reporting | (OCT 1996) |
| | | (IAW FAR 23.907(b)) | |

PART II - CONTRACT CLAUSES
SECTION I
CONTRACT CLAUSES

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|--------|------------------|---|------------|
| I-312 | 52.225-11 | Restrictions on Certain Foreign Purchases | (OCT 1996) |
| | | (IAW FAR 25.702) | |
| I-312D | 52.225-15 | Buy American Act--Construction Materials Under Trade Agreements Act And North American Free Trade Agreement (IAW FAR 25.207(d)(1)) | (JUN 1997) |
| I-314D | 52.226-1 | Utilization Of Indian Organizations and Indian-Owned Economic Enterprises | (SEP 1996) |
| | | (IAW FAR 26.104(a)) | |
| I-315 | 52.227-1 | Authorization and Consent | (JUL 1995) |
| | | (IAW FAR 27.201-2(a)) | |
| I-317 | 52.227-2 | Notice And Assistance Regarding Patent and Copyright Infringements | (AUG 1996) |
| | | (IAW FAR 27.202-2) | |
| I-321 | 52.227-4 | Patent Indemnity-Construction Contracts | (APR 1984) |
| | | (IAW FAR 27.203-5) | |
| I-334 | 52.228-2 | Additional Bond Security | (OCT 1997) |
| | | (IAW FAR 28.106-4) | |
| I-337 | 52.228-5 | Insurance--Work on a Government Installation | (JAN 1997) |
| | | (IAW FAR 28.310) | |
| I-345 | 52.228-11 | Pledges of Assets | (FEB 1992) |
| | | (IAW FAR 28.203-6) | |
| I-352 | 52.229-3 | Federal, State, and Local Taxes | (JAN 1991) |
| | | (IAW FAR 29.401-3) | |
| I-354 | 52.229-5 | Taxes--Contracts Performed in U.S. Possessions or Puerto Rico | (APR 1984) |
| | | (IAW FAR 29.401-5) | |
| I-383 | 52.232-1 | Payments | (APR 1984) |

| | | | |
|-------|------------------|---|------------|
| I-391 | 52.232-8 | (IAW FAR 32.111(a)(1)) Discounts For Prompt Payment (IAW FAR 32.111(c)(1)) | (MAY 1997) |
| I-394 | 52.232-11 | Extras (IAW FAR 32.111(d)(2)) | (APR 1984) |
| I-403 | 52.232-17 | Interest (IAW FAR 32.617(a) and 32.617(b)) | (JUN 1996) |
| I-404 | 52.232-18 | Availability Of Funds (IAW FAR 32.705-1(a)) | (APR 1984) |
| I-405 | 52.232-19 | AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR (IAW FAR 32.705-1(b)) | (APR 1984) |

For the purposes of this clause the blank(s) are completed as follows:

30 SEPTEMBER OF THE CURRENT FISCAL YEAR

PART II - CONTRACT CLAUSES

SECTION I

CONTRACT CLAUSES

| | | | |
|--|------------------|---|------------|
| I-409 | 52.232-23 | Assignment of Claims (IAW FAR 32.806(a)(1)) | (JAN 1986) |
| I-412 | 52.232-25 | Prompt Payment | (JUN 1997) |
| For the purposes of this clause the blank(s) are completed as follows: | | | |
| | | (a)(5)(i) <u>7th</u> (b)(1) <u>30th</u> (IAW FAR 32.908(c)) | |
| I-416F | 52.232-33 | Mandatory Information For Electronic Funds Transfer Payment (IAW FAR 32.1103(a) and 32.1103(c)) | (AUG 1996) |
| I-417 | 52.233-1 | Disputes (IAW FAR 33.215) | (OCT 1995) |
| I-419 | 52.233-3 | Protest After Award (IAW FAR 33.106(b)) | (AUG 1996) |
| I-444 | 52.236-1 | Performance of Work by the Contractor (IAW FAR 36.501(b)) <u>To be cited in individual task orders</u> | (APR 1984) |
| I-445 | 52.236-2 | Differing Site Conditions (IAW FAR 36.502) | (APR 1984) |
| I-446 | 52.236-3 | Site Investigation and Conditions Affecting the Work (IAW FAR 36.503) | (APR 1984) |
| I-448 | 52.236-5 | Material and Workmanship | (APR 1984) |

| | | | |
|-------|------------------|--|------------|
| I-449 | 52.236-6 | (IAW FAR 36.505) Superintendence by Contractor | (APR 1984) |
| I-450 | 52.236-7 | (IAW FAR 36.506) Permits and Responsibilities | (NOV 1991) |
| I-451 | 52.236-8 | (IAW FAR 36.507) Other Contracts | (APR 1984) |
| I-452 | 52.236-9 | (IAW FAR 36.508) Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements | (APR 1984) |
| I-453 | 52.236-10 | (IAW FAR 36.509) Operations and Storage Areas | (APR 1984) |
| I-455 | 52.236-12 | (IAW FAR 36.510) Cleaning Up | (APR 1984) |
| I-456 | 52.236-13 | (IAW FAR 36.512) Accident Prevention | (NOV 1991) |
| I-457 | 52.236-13 | (IAW FAR 36.513(a)) Alternate I | (NOV 1991) |
| | | (IAW FAR 36.513(b)) | |

PART II - CONTRACT CLAUSES

SECTION I

CONTRACT CLAUSES

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| I-459 | 52.236-15 | Schedules for Construction Contracts | (APR 1984) |
| | | (IAW FAR 36.515) | |
| I-466 | 52.236-21 | Specifications & Drawings for Construction | (FEB 1997) |
| | | (IAW FAR 36.521) | |
| I-541 | 52.242-13 | Bankruptcy | (JUL 1995) |
| | | (IAW FAR 42.903) | |
| I-542 | 52.242-14 | Suspension of Work | (APR 1984) |
| | | (IAW FAR 42.1305(a)) | |
| I-546 | 52.243-1 | Changes-Fixed Price | (AUG 1987) |
| | | (IAW FAR 43.205(a)(1)) | |
| I-548 | 52.243-1 | Changes--Fixed Price - Alternate II | (APR 1984) |
| | | (IAW FAR 43.205(a)(3)) | |
| I-568 | 52.244-1 | Subcontracts (Fixed-Price Contracts) | (OCT 1997) |
| | | (IAW FAR 44.204(a)(1)) | |

(e) Even if the Contractor's purchasing system has been approved, the Contractor shall obtain the Contracting Officer's written consent before placing subcontracts identified below: _____

I-574 **52.244-6 Subcontracts For Commercial Items and Commercial Components** (OCT 1995)
(IAW FAR 44.403)

- (a) Definition.
“Commercial Item”, as used in this clause, has the meaning contained in the clause at 52.202-1, Definitions “Subcontract”, as used in this clause, includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.
- (b) To the maximum extent practicable, the contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.
- (c) Notwithstanding any other clause of this contract, the contractor is not required to include any FAR provision or clause, other than those listed below to the extent they are applicable and as may be required to establish the reasonableness of prices under Part 15, in a subcontract at any tier for commercial items or commercial components:
- (1) 52.222-26, Equal Opportunity (E.O. 11246);
 - (2) 52.222-35, Affirmative Action for Special Disabled and Vietnam Era Veterans (38 U.S.C. 4212(a));
 - (3) 52.222-36, Affirmative Action for Handicapped Workers (29 U.S.C. 793); and

PART II - CONTRACT CLAUSES

SECTION I

CONTRACT CLAUSES

- (4) 52.247-64, Preference for Privately Owned U.S.-Flagged Commercial Vessels (46 U.S.C. 1241) (flow down not required for subcontracts awarded beginning May 1, 1996).
- (d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

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| I-580 | 52.245-2 | Government Property (Fixed-Price Contracts) (IAW FAR 45.106(b)(1)) | (DEC 1989) |
| I-581 | 52.245-2 | Government Property (Fixed-Price Contracts) Alternate I (IAW FAR 45.106(b)(2)) | (APR 1984) |
| I-624 | 52.246-21 | Warranty of Construction (IAW FAR 46.710(e)(1)) | (MAR 1994) |
| I-630 | 52.246-25 | Limitation of Liability--Services (IAW FAR 46.805) | (FEB 1997) |
| I-684 | 52.249-2 | Termination for Convenience of the Government (Fixed-Price) (IAW FAR 49.502(b)(1)(i)) | (SEP 1996) |

TERMINATION LIABILITY: For the purposes of the Termination for Convenience clause contained herein, the total contract price shall be limited to the ESCO's share (excludes any ICP grants, rebates or utility company funding) of the ECM cost as established in each contract task order. Accordingly, the Government's maximum termination liability in the event of a termination for the convenience of the Government shall not exceed the sum of the payments due the ESCO for the remainder of the task order term plus other termination costs as detailed in Exhibit K of each task order.

| | | | |
|----------------|------------------|---|------------|
| I-685 | 52.249-2 | Alternate I (IAW FAR 49.502(b)(1)(i)) | (SEP 1996) |
| I-699 1984) | 52.249-8 | Default (Fixed-Price Supply and Service) (IAW FAR 49.504(a)(1)) | (APR 1984) |
| I-702 | 52.249-10 | Default (Fixed-Price Construction) (IAW FAR 49.504(c)(1)) | (APR 1984) |
| I-733 | 52.252-6 | Authorized Deviations in Clauses (IAW FAR 52.107(f)) | (APR 1984) |

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

(b) The use in this solicitation or contract of any Defense Federal Acquisition Regulation Supplement (48 CFR Chapter 2) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

PART II - CONTRACT CLAUSES

SECTION I

CONTRACT CLAUSES

| | | | |
|--------|---------------------|---|------------|
| IA-22 | 252.203-7001 | Special Prohibition on Employment (IAW DFARS 203.570-5) | (JUN 1997) |
| IA-24 | 252.203-7002 | Display Of DOD Hotline Poster (IAW DFARS 203.7002) | (DEC 1991) |
| IA-33 | 252.204-7003 | Control Of Government Personnel Work Product (IAW DFARS 204.404-70(b)) | (APR 1992) |
| IA-40 | 252.205-7000 | Provision Of Information To Cooperative Agreement Holders (IAW DFARS 205.470-2) | (DEC 1991) |
| IA-90 | 252.209-7000 | Acquisition From Subcontractors Subject To On-Site Inspection Under The Intermediate-Range Nuclear Forces (INF) Treaty (IAW DFARS 209.103-70) | (NOV 1991) |
| IA-152 | 252.215-7000 | Pricing Adjustments | (DEC 1991) |

- (IAW DFARS 215.804-8)
- IA-225 **252.219-7003 Small, Small Disadvantaged And Women-Owned Small Business Subcontracting Plan (DOD Contracts)** (APR 1996)
(IAW DFARS 219.708(b)(1)(A))
- IA-227 **252.219-7005 Incentive For Subcontracting With Small Businesses, Small Disadvantaged Businesses, Historically Black Colleges and Universities, And Minority Institutions** (NOV 1995)
(IAW DFARS 219.708(c)(1)(A))
- For the purposes of this clause the blank is completed as follows:
(a) 0 percent
- IA-230 **252.219-7006 Notice of Evaluation Preference For Small Disadvantaged Business Concerns** (JUN 1997)
(IAW DFARS 219.7003)
- For the purposes of this clause, the offeror will complete the following, if applicable
[] Offeror elects to waive the preference
- IA-280 **252.223-7004 Drug-Free Work Force** (SEP 1988)
(IAW DFARS 223.570-4)
- IA-282 **252.223-7006 Prohibition on Storage and Disposal of Toxic and Hazardous Materials** (APR 1993)
(IAW DFARS 223.7103)

PART II - CONTRACT CLAUSES

SECTION I

CONTRACT CLAUSES

- IA-287 **252.225-7001 Buy American Act And Balance of Payments Program** (JAN 1994)
(IAW DFARS 225.109(d))
- (The "Balance of Payments Program" is not applicable when the estimated cost of the product or service is at or below the Simplified Acquisition Threshold in FAR Part 13)
- IA-288 **252.225-7002 Qualifying Country Sources As Subcontractors** (DEC 1991)
(IAW DFARS 225.109-70(a))
- (The balance of Payments Program is not applicable when the estimated cost of the product or service is at or below \$100,000)
- IA-293 **252.225-7012 Preference for Certain Domestic Commodities** (SEP 1997)
(IAW DFARS 225.7002-3(a) and
D.L. Ltr 97-018 dated 8 Sep 97)

| | | |
|---------|--|------------|
| IA-297 | 252.225-7016 Restriction On Acquisition Of Ball and Roller Bearings (IAW DFARS 225.7019-4) (Clause is not applicable when items acquired overseas are for use overseas) | (JUN 1997) |
| IA-312C | 252.225-7026 Reporting Of Contract Performance Outside The United States (IAW DFARS 225.7203) | (NOV 1995) |
| IA-312H | 252.225-7031 Secondary Arab Boycott Of Israel (IAW DFARS 225.770-5) | (JUN 1992) |
| IA-337 | 252.227-7015 Technical Data--Commercial Items (IAW DFARS 227.7102-3) | (NOV 1995) |
| IA-350 | 252.227-7033 Rights in Shop Drawings (IAW DFARS 227.7107-1(c)) | (APR 1966) |
| IA353 | 252.227-7037 Validation of Restrictive Markings on Technical Data (IAW DFARS 227.7102-3(c), 227.7103-6(e)(4), 227.7104(e)(6), or 227.203-(6)(f)) | (NOV 1995) |
| IA-399 | 252.231-7000 Supplemental Cost Principles (IAW DFARS 231.100-70) | (DEC 1991) |
| IA-462 | 252.236-7000 Modification Proposals-Price Breakdown (IAW DFARS 236.570(a)) | (DEC 1991) |
| IA-474 | 252.236-7005 Airfield Safety Precautions (IAW DFARS 236.570(b)(3)) | (DEC 1991) |
| IA-632 | 252.242-7000 Postaward Conference (IAW DFARS 242.570) | (DEC 1991) |
| IA-648 | 252.243-7001 Pricing of Contract Modifications (IAW DFARS 243.205-71) | (DEC 1991) |

PART II - CONTRACT CLAUSES

SECTION I

CONTRACT CLAUSES

| | | |
|--------|---|------------|
| IA-745 | 252.247-7023 TRANSPORTATION OF SUPPLIES BY SEA (IAW DFARS 247.573(b)) | (NOV 1995) |
|--------|---|------------|

(a) **Definitions.** As used in this clause—

(1) “*Components*” means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication, or assembly by the Contractor or any subcontractor.

(2) “*Department of Defense*” (DOD) means the Army, Navy, Air Force, Marine Corps, and defense agencies.

(3) “*Foreign flag vessel*” means any vessel that is not a U.S.-flag vessel.

(4) “*Ocean transportation*” means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

(5) “*Subcontractor*” means a supplier, materialman, distributor, or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract. However, effective May 1, 1996, the term does not include a supplier, materialman, distributor, or vendor of commercial items or commercial components.

(6) “*Supplies*” means all property, except land and interests in land, that is clearly identifiable for eventual use by or owned by the DOD at the time of transportation by sea.

(i) An item is clearly identifiable for eventual use by the DOD if, for example, the contract documentation contains a reference to a DOD contract number or a military destination.

(ii) “*Supplies*” includes (but is not limited to) public works; buildings and facilities; ships; floating equipment and vessels of every character, type, and description, with parts, subassemblies, accessories, and equipment; machine tools; material; equipment; stores of all kinds; end items; construction materials; and components of the foregoing

(7) “*U.S.-flag vessel*” means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b) The contractor shall employ U.S.-flag vessels in the transportation by sea of any supplies to be furnished in the performance of this contract. The contractor and its subcontractors may request that the Contracting Officer authorize shipment in foreign-flag vessels, or designate available U.S.-flag vessels, if the Contractor or a subcontractor believes that—

- (1) U.S.-flag vessels are not available for timely shipment;
- (2) The freight charges are inordinately excessive or unreasonable; or
- (3) Freight charges are higher than charges to private persons for transportation of like goods.

PART II - CONTRACT CLAUSES

SECTION I

CONTRACT CLAUSES

(c) The Contractor must submit a request for use of other than U.S.-flag vessels, in writing, to the Contracting Officer at least 45 days prior to the sailing date necessary to meet its delivery schedules. The Contracting Officer will process requests submitted after such date(s) as expeditiously as possible, but the Contracting Officer’s failure to grant approvals to meet the shipper’s sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. Requests shall contain at a minimum—

- (1) Type, weight, and cube of cargo;

- (2) Required shipping date;
- (3) Special handling and discharge requirements;
- (4) Loading and discharge points;
- (5) Name of shipper and consignee;
- (6) Prime contract number; and
- (7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact (with names and telephone numbers) with at least two U.S.-flag carriers contacted. Copies of telephone notes, telegraphic and facsimile messages or letters will be sufficient for this purpose.

(d) The contractor shall, within 30 days after each shipment covered by this clause, provide the Contracting Officer and the *Division of National Cargo, Office of Market Development, Maritime Administration, U. S. Department of Transportation, Washington, DC 20590*, one copy of the rated on board vessel operating carrier's ocean bill of lading, which shall contain the following information—

- (1) Prime contract number;
- (2) Name of vessel;
- (3) Vessel flag of registry;
- (4) Date of loading;
- (5) Port of loading;
- (6) Port of final discharge;
- (7) Description of commodity;
- (8) Gross weight in pounds and cubic feet if available;
- (9) Total ocean freight in U.S. dollars; and
- (10) Name of the steamship company.

(e) The Contractor agrees to provide with its final invoice under this contract a representation that to the best of its knowledge and belief—

- (1) No ocean transportation was used in the performance of this contract;
- (2) Ocean transportation was used and only U.S.-flag vessels were used for all ocean shipments under the contract.

PART II - CONTRACT CLAUSES

SECTION I

CONTRACT CLAUSES

- (3) Ocean transportation was used, and the Contractor had the written consent of the Contracting Officer for all non-U.S.-flag ocean transportation; or
- (4) Ocean transportation was used and some or all of the shipments were made on non-U.S.-flag vessels without the written consent of the Contracting Officer. The Contractor shall describe these shipments in the following format:

| ITEM | CONTRACT | | |
|-------------|------------|----------|-------|
| DESCRIPTION | LINE ITEMS | QUANTITY | TOTAL |

(f) If the final invoice does not include the required representations, the Government will reject and return it to the contractor as an improper invoice for the purposes of the Prompt Payment clause of this contract. In the event there has been unauthorized use of non-U.S-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized use.

(g) The Contractor shall include this clause, including this paragraph (g), in all subcontracts under this contract, which exceed the simplified acquisition threshold in Part 13 of the Federal Acquisition Regulation.

IA-746 **252.247-7024 NOTIFICATION OF TRANSPORTATION OF** NOV 1995
SUPPLIES BY SEA
 (IAW DFARS 247.573(c))

(a) The Contractor has indicated by the response to the solicitation provision, *Representation of Extent of Transportation by Sea*, that it did not anticipate transporting by sea any supplies. If, however, after the award of this contract, the contractor learns that supplies, as defined in the *Transportation of Supplies by Sea* clause of this contract, will be transported by sea, the Contractor

- (1) Shall notify the Contracting Officer of that fact; and
- (2) Hereby agrees to comply with all the terms and conditions of the *Transportation of Supplies by Sea* clause of this contract.

(b) The Contractor shall include this clause, including this paragraph (b), revised as necessary to reflect the relationship of the contracting parties, in all subcontracts hereunder, except (effective May 1, 1996) subcontracts for the acquisition of commercial items or components.

Clause IA-746 above applies only if the contractor makes a negative response to the inquiry in the provision at 252.247-7022 (Section K).

PART II - CONTRACT CLAUSES

SECTION I

CONTRACT CLAUSES

IB-4. **5352.204-9000 Notification of Government Security Activity** (MAY 1996)
 (IAW AFFARS 5304.404-90)

IB-5. **5352.204-9001 Visitor Group Security Agreements** (MAY 1996)
(IAW AFFARS 5304.404-90)

IB-320. **5352.223-9000 Elimination of Use of Class I Ozone Depleting Substances (ODS)** (MAY 1996)
(IAW AFFARS 5323.890-7)

(a) It is the Air Force policy to preserve mission readiness while minimizing dependency on Class I Ozone Depleting Substances (ODS), and their release into the environment, to help protect the Earth's stratospheric ozone layer.

(b) Unless a specific waiver has been approved, Air Force procurements:

(1) May not include any specification, standard, drawing or other document that requires the use of a Class I ODS in the design, manufacture, test, operation, or maintenance of any system, subsystem, item, component or process; and

(2) May not include any specification, standard, drawing, or other document that establishes a requirement that can only be met by use of a Class I ODS;

(c) For the purposes of Air Force policy, the following are Class I ODS:

(1) Halons: 1011, 1202, 1211, 1301, and 2402;

(2) Chlorofluorocarbons (CFCs): CFC-11, CFC-12, CFC-13, CFC-111, CFC-112, CFC-113, CFC-114, CFC-115, CFC-211, CFC-212, CFC-213, CFC-214, CFC-215, CFC-216, and CFC-217, and the blends R-500, R-501, R-502, and R-503; and

(3) Other Controlled Substances: Carbon Tetrachloride, Methyl Chloroform, and Methyl Bromide.

(d) The Air Force has reviewed the requirements specified in this contract to reflect this policy. Where considered essential, specific approval has been obtained to require use of the following substances:

| Substance | Application/Use | Quantity (lbs.) |
|-----------|-----------------|-----------------|
|-----------|-----------------|-----------------|

(e) To assist the Air Force in implementing this policy, the offeror/contractor is required to notify the Contracting Officer if any Class I ODS not specifically listed above is required in the performance of this contract.

IB-321. **5352.223.9001 Health and Safety on Government Installations** (JUN 1997)
(IAW AFFARS 5323.9002

(a) In performing work under this contract on a Government installation, the Contractor shall:

(1) Conform to the specific safety requirements established by this contract;

PART II - CONTRACT CLAUSES

SECTION I

CONTRACT CLAUSES

(2) Comply with the safety rules of the Government installation that concern related activities not directly addressed in this contract;

(3) Take all reasonable steps and precautions to prevent accidents and preserve the life and health of contractor and Government personnel performing or in any way coming in contact with the performance of this contract; and

(4) Take such additional immediate precautions as the Contracting Officer may reasonably require for safety and accident prevention purposes.

(b) If this contract is performed on an Air Force installation, the Air Force Occupational Safety and Health Standards (AFOSH) developed in accordance with AFI 91-301, Air Force Occupational Safety, Fire Prevention, and Health Program in effect on the date of this contract, apply. If contract performance is on other than an Air Force installation, the contractor shall comply with the safety rules of that Government installation, in effect on the date of this contract.

(c) The Contracting Officer may, by written order, direct additional AFOSH and safety and accident standards as may be required in the performance of this contract and any adjustments resulting from such direction will be in accordance with the Changes clause of this contract.

(d) Any violation of these safety rules and requirements, unless promptly corrected as directed by the Contracting Officer, shall be grounds for termination of this contract in accordance with the Default clause of this contract.

IB-343 5352.242-9000 CONTRACTOR ACCESS TO AIR FORCE (MAY 1996)
INSTALLATIONS
(IAW AFFARS 5342.490-1)

(a) The contractor shall obtain base identification and vehicle passes for all contractor personnel who make frequent visits to or perform work on the Air Force installation(s) cited in the contract. Contractor personnel are required to wear or prominently display installation identification badges or contractor-furnished, contractor identification badges while visiting or performing work on the installation.

(b) The contractor shall submit a written request on company letterhead to the Contracting Officer listing the following: contract number, location of work site, start and stop dates, and names of employees and subcontractor employees needing access to the base. The letter will also specify the individual(s) authorized to sign for a request for base identification credentials or vehicle passes. The Contracting Officer will endorse the request and forward it to the issuing pass and registration office or security police for processing. When reporting to the registration office, the authorized contractor individual(s) should provide a valid driver's license, current vehicle registration, and valid vehicle insurance certificate to obtain a vehicle pass.

(c) During performance of the contract, the contractor shall be responsible for obtaining required identification for newly assigned personnel and for prompt return of credentials and vehicle passes for any employee who no longer requires access to the work site.

PART II - CONTRACT CLAUSES

SECTION I
CONTRACT CLAUSES

(d) When work under this contract requires unescorted entry to controlled or restricted areas, the contractor shall comply with AFI 31-209, the Air Force Resource Protection Program, and AFI 31-501, Personnel Security Program Management, as applicable.

(e) Upon completion or termination of the contract or expiration of the identification passes, the prime contractor shall ensure that all base identification passes issued to employees and subcontractor employees are returned to the issuing office.

(f) Prior to submitting an invoice for final payment, the prime contractor shall obtain a clearance certification from the issuing office which states all base identification passes have been turned in, accounted for, or transferred to a follow-on contract. This certification shall be submitted to the Contracting Officer prior to submission of the final invoice for payment.

(g) Failure to comply with these requirements may result in withholding of final payment.

PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS

SECTION J

LIST OF ATTACHMENTS

(All listed attachments are at the end of this document)

| <u>ATTCH. NR</u> | <u>TITLE</u> | <u>DATE</u> | <u>NR OF PAGES</u> |
|--------------------------------|---|-----------------------------|--------------------|
| Attachment 1 | Statement of Work for Region One Energy Savings Performance Contract | 30 Mar 98 | 26 |
| DELETED Attachment 2 | DELETED Seed Project Information with Attachments | DELETED 30 Mar 98 | 27 |
| Attachment 3 | Proposal Volumes I and II (Incorporated by reference) | 25 Nov 97 | 126 |
| Attachment 4 | Subcontracting Plan (Incorporated by reference) | 11 Aug 98 | 7 |

Contract: F08637 98 D6002

| | | | |
|---|-------------------|--|--------------------------------|
| AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT | | 1. CONTRACT ID CODE | PAGE OF PAGES |
| 2. MODIFICATION NO. | 3. EFFECTIVE DATE | 4. REQUISITION/PURCHASE REQ. NO. | 5. PROJECT NO. (if applicable) |
| 6. B. CODE | 06/17/98 | 7. ADMINISTERED BY (if other than item 6) | CODE |
| 1. Contracting Squadron/LGCX 1100 Ave. 50th AFB, FL 32403-5526 | | | |
| E AND ADDRESS OF CONTRACTOR (Name, street, country, State and ZIP Code) | | 9A. AMENDMENT OF SOLICITATION NO. | |
| NORESO 111 Speen Street Framingham, MA 01701 | | X F08637 97 R6009 9B. DATED (SEE ITEM 11) | |
| | | 06/08/98 | |
| | | 10A. MODIFICATION OF CONTRACT/ORDER NO. | |
| | | 10B. DATED (SEE ITEM 11) | |
| OR 7F1 | FEASIBILITY CODE | OR 7F1 | |

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in item 10. The date and date specified for receipt of offers. ☐ is extended, ☒ is not extended.

11. Additional changes of this amendment, other than the date and date specified in the solicitation or as amended, by one of the following methods:

By changing the way it is used, and by changing the number of the amendment (0) by acknowledging receipt of this amendment on each copy of the offer. It is not by telephone or by teletype which includes a response to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS. THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by return of this amendment you desire to change an offer already submitted, such change may be made by teletype or letter, provided such or better method reference is the solicitation and this amendment, and is received prior to the opening date and date specified.

Timing and Approval Date of request

12. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

THIS CHANGE ORDER ISSUED PURSUANT TO THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 14.

THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES SET FORTH IN CHANGES IN THE CONTRACT ORDER NO. IN ITEM 14.

THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:

OTHER (Specify type of modification and authority)

IRITANT: Contract ☐ Item ☐ In request to sign this document and return ☐ copies to the issuing office.

REPRODUCTION OF AMENDMENT/MODIFICATION (Approved by DCF issuing authority, including identification of contract subject matter where feasible)

PAGE 2.

I provided herein, all terms and conditions of the document referenced in item 14 or 10A, as herebefore changed, remain unchanged and in full force and effect.

| | | | |
|--|------------------|---|------------------|
| NAME AND TITLE OF SIGNER (Type or print) | | 18A. NAME AND TITLE OF SIGNER (Type or print) | |
| John Rizzo, Vice President | | | |
| 17. OFFEROR | 16C. DATE SIGNED | 18B. UNITED STATES OF AMERICA | 18C. DATE SIGNED |
| | 7/1/98 | BY | |
| 01-101-DE 70 | | STANDARD FORM 10-101 | |
| EDITION 1-1-1988 | | Prescribed by GSA, FAR (48 CFR) 53.202 | |

Solicitation No: F08637 97 R6009 Amendment 0001

Page 2

- A. Remove solicitation page 18 and replace with the attached page 18 marked Solicitation No: F08637 97 R6009 0001. The revised page deletes clause 52.225-5 and adds 52.225-15.
- B. Remove solicitation page 23 and replace with the attached Page 23 marked Solicitation No: F08637 97 R6009 0001. The revised page deletes clause 252.232-7006.
- C. Remove solicitation Seed Project Attachment 1 and replace with the attached revised page marked Solicitation No: F08637 97 R6009 0001, Attachment 1 R-2. This replacement page corrects the building numbers for Facility 3 and adds authorization for a contractor storage facility.
- D. Remove solicitation Seed Project Attachment 7 and replace with the attached revised page marked Solicitation No: F08637 97 F6009 0001, Attachment 7 R-1. This replacement page adds a ECM Total line at the bottom of the form.
- E. The questions asked at the site visit and the answers to them are hereby incorporated as Amendment Attachment 1, three pages.
- F. The list of attendees for the preproposal conference is hereby incorporated as Amendment Attachment 2, two pages.
- G. Changes on the above listed replacement pages are marked by a solid black line on the left side of the page.
- H. All other terms and conditions remain unchanged.

****LAST ITEM****

| AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT | | Contract: F08637 98 D6002 | |
|---|--|-------------------------------|---------------|
| 1. AMENDMENT/MODIFICATION NO. | | 4. CONTRACT ID CODE | PAGE OF PAGES |
| 2. EFFECTIVE DATE 06/29/98 | | 5. PROJECT NO. OF APPLICATION | 1 2 |
| 3. FACILITY CODE F08637 | | 6. PROJECT NO. OF APPLICATION | |
| 7. ADMINISTERED BY (if other than item 2) | | CODE | |
| AND ADDRESS OF CONTRACTOR (City, State, Country, State and Zip Code) Northeast Energy Services (NORESCO) 171 Speen Street, Suite 500 Framingham, Ma 01701 | | | |
| 8. AMENDMENT OF SOLICITATION NO. | | 9. DATED (SEE ITEM 11) | |
| X F08637 97 R6009 | | 06/08/98 | |
| 10. AMENDMENT OF CONTRACT ORDER NO. | | 11. DATED (SEE ITEM 12) | |
| OR 7E1 | | OR 7E1 | |
| 12. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS | | | |
| Above referenced solicitation is amended as set forth in Item 8. The date and date received for receipt of offers is extended <input type="checkbox"/> is not extended <input checked="" type="checkbox"/> | | | |
| 13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14. | | | |
| ABOVE REFERENCED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES AS SET FORTH IN ITEM 14. | | | |
| SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: | | | |
| 14. NAME AND TITLE OF SIGNER (Type or print) J. Rizzo, Vice President | | | |
| 15. DATE SIGNED 7/2/98 | | 16. UNITED STATES OF AMERICA | |
| 17. SIGNATURE OF CONTRACTING OFFICER | | 18. DATE SIGNED | |

STANDARD FORM 20 (REV. 10-63)
Prescribed by GSA
FPMR (41 CFR) 101-11.6

- I. Remove solicitation page 51 and replace with the attached page 51 marked Solicitation No: F08637 97 R6009 0002. The revised page changes paragraph M-4,B,2,a,i.
- J. Remove solicitation Attachment 1, Statement of Work, pages 9, 13, and 25 and replace with the attached pages 9, 13, and 25 marked Solicitation No: F08637 97 R6009 0002. The revision changes wording for the paragraph entitled Exhibit C on page 9, inserts a new Figure C-1 on page 13, and changes paragraph 4.7 on page 25.
- K. Remove solicitation Seed Project Attachment 7, Pages 4, 5, and 6 and replace with the attached pages 4, 5, and 6 marked Solicitation F08637 97 R6009 0002. The revision changes paragraph 3 on pages 4 and 5 and changes the paragraph number on the Subcontracting Plan to number 4, and inserts a new Figure C-1 on page 6.
- L. All changes are indicated by vertical black lines in the left margins of the pages.
- M. All other terms and conditions remain unchanged.

****LAST ITEM****

| AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT | | 1. CONTRACT NO. CODE | | PAGE OF PAGES | |
|---|--|--|--|----------------------------------|--|
| AMENDMENT/MODIFICATION NO. | | 3. EFFECTIVE DATE | | 4. REQUISITION/PURCHASE REQ. NO. | |
| 23 | | 07/28/98 | | 5. PROJECT NO. (if applicable) | |
| CODE F08637 | | 7. ADMINISTERED BY (if applicable) | | Region One SSFC | |
| CONTACTING SQUADRON/LCCX LINCOLN AVE. SUITE 2 ALL AFB, FL 32405-3526 | | | | CODE | |
| 11. ADDRESS OF CONTRACTOR (Name, street, county, State and ZIP Code) | | 12. AMENDMENT OF SOLICITATION NO. | | 13. DATED (SEE ITEM 11) | |
| Northeast Energy Services (NORESCO) 111 Speen Street, Suite 500 Framingham, MA 01701 | | X F08637 97 R6009 | | 06/08/98 | |
| 14. ADDRESS OF CONTRACTOR (Name, street, county, State and ZIP Code) | | 15. MODIFICATION OF CONTRACT/ORDER NO. | | 16. DATED (SEE ITEM 11) | |
| OR 751 | | OR 751 | | | |
| 17. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS | | | | | |
| <p>18. CHANGE ORDER IS ISSUED PURSUANT TO (Specify authority):</p> <p>19. SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:</p> <p>20. (Specify type of modification and authority):</p> | | | | | |
| <p>21. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS.</p> <p>IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.</p> <p>22. CHANGE ORDER IS ISSUED PURSUANT TO (Specify authority):</p> <p>23. SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:</p> <p>24. (Specify type of modification and authority):</p> | | | | | |
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| <p>37. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS.</p> <p>IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.</p> <p>38. CHANGE ORDER IS ISSUED PURSUANT TO (Specify authority):</p> <p>39. SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:</p> <p>40. (Specify type of modification and authority):</p> | | | | | |
| <p>41. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS.</p> <p>IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.</p> <p>42. CHANGE ORDER IS ISSUED PURSUANT TO (Specify authority):</p> <p>43. SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:</p> <p>44. (Specify type of modification and authority):</p> | | | | | |
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| <p>53. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS.</p> <p>IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.</p> <p>54. CHANGE ORDER IS ISSUED PURSUANT TO (Specify authority):</p> <p>55. SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:</p> <p>56. (Specify type of modification and authority):</p> | | | | | |
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| <p>61. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS.</p> <p>IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.</p> <p>62. CHANGE ORDER IS ISSUED PURSUANT TO (Specify authority):</p> <p>63. SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:</p> <p>64. (Specify type of modification and authority):</p> | | | | | |
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| <p>77. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS.</p> <p>IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.</p> <p>78. CHANGE ORDER IS ISSUED PURSUANT TO (Specify authority):</p> <p>79. SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:</p> <p>80. (Specify type of modification and authority):</p> | | | | | |
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| <p>85. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS.</p> <p>IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.</p> <p>86. CHANGE ORDER IS ISSUED PURSUANT TO (Specify authority):</p> <p>87. SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:</p> <p>88. (Specify type of modification and authority):</p> | | | | | |
| <p>89. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS.</p> <p>IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.</p> <p>90. CHANGE ORDER IS ISSUED PURSUANT TO (Specify authority):</p> <p>91. SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:</p> <p>92. (Specify type of modification and authority):</p> | | | | | |
| <p>93. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS.</p> <p>IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.</p> <p>94. CHANGE ORDER IS ISSUED PURSUANT TO (Specify authority):</p> <p>95. SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:</p> <p>96. (Specify type of modification and authority):</p> | | | | | |
| <p>97. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS.</p> <p>IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.</p> <p>98. CHANGE ORDER IS ISSUED PURSUANT TO (Specify authority):</p> <p>99. SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:</p> <p>100. (Specify type of modification and authority):</p> | | | | | |

GE TWO

| | | | |
|---|----------------|---|----------------|
| 1. NAME AND TITLE OF SIGNER (Type or print) | | 2. NAME AND TITLE OF SIGNER (Type or print) | |
| Mr. J. Rizzo, Vice President | | | |
| 3. DATE SIGNED | 4. DATE SIGNED | 5. UNITED STATES OF AMERICA | 6. DATE SIGNED |
| 7/28/98 | | | |
| 7. SIGNATURE OF CONTRACTING OFFICER | | 8. SIGNATURE OF CONTRACTING OFFICER | |
| | | | |

- N. Remove solicitation page 3 and replace with the attached page 3 marked Solicitation No: F08637 97 R6009 0003. The revised page changes paragraph b-1 (d). Changes on the page are marked by a vertical line on the left side. This changes the Tyndall project from a "seed" project to a "sample" project. The sample project may or may not be awarded and the contract guaranteed minimum is changed to \$50,000.00.
- O. All references in the solicitation and attachments to "Seed Project" are hereby changed to read "Sample Project".
- P. The attached page 13a is hereby incorporated into the solicitation and any resulting contract. The page adds a conflict of interest clause to prevent conflicting roles which may bias the Contractor's judgement or objectivity, to preclude the Contractor from obtaining an unfair competitive advantage in concurrent or future acquisitions, and restrict the disclosure of proprietary information the contractor may receive.
- Q. The following electric rate information is hereby incorporated into the solicitation for use in the computations for the sample project. The RTP rate information is only for use for the ESPC analysis on the sample project at Tyndall AFB and represent historical averages provided by Gulf Power. These costs are per kWh and will be utilized by proposers in their computations for cost savings.

Average price during peak hours was \$.11572

Average price during non-peak hours was \$.03185

Peak hours occurred from June through September, Monday through Friday, Noon to 6:00 PM

Percent of hours that prices were above \$.20 is .5%.

Percent of hours that prices were between \$.10 and \$.20 is 2.3%.

Percent of hours that prices were between \$.05 and \$.10 is 3.4%.

Percent of hours that prices were between \$.03 and \$.05 is 71.4%.

Percent of hours that prices were below \$.03 is 22.4%.

- R. The drawings listed on the attached page (Attach 1) are hereby incorporated into the technical library provided to each contractor.
- S. The hour and date specified for receipt of offer in Block 9 of the Standard Form 1447, Solicitation/Contract, is hereby changed to read "until 3:00 PM Central Time on 11 Aug 1998".
- T. All other terms and conditions remain unchanged.

****LAST ITEM****

Statement of Work

For

Region One Energy Savings Performance Contract

30 March 1998

PART 1.0 GENERAL INFORMATION

- 1.1 Background
- 1.2 Contract Term
- 1.3 Contracting Officer's Representative
- 1.4 Contractor Employees
- 1.5 Access to Buildings
- 1.5.1 Contractor Facility and Storage Area

PART 2.0 SCOPE

- 2.1 Phase I - Preliminary Site Survey
 - 2.1.1 Phase I Report
 - 2.1.2 Phase I Summary
 - 2.1.3 Government Response to Phase I
- 2.2 Phase II - Facility Energy Audit and Economic Analysis
 - 2.2.1 Phase II Taskings
 - 2.2.2 Access to Facility Data
 - 2.2.3 Phase II Report
 - 2.2.4 Report Format
 - 2.2.5 Government Response to Phase II Report
- 2.3 Phase III - ECM Implementation and Operations/Maintenance
 - 2.3.1 Contract Task order
 - 2.3.2 Phase III - ECM Implementation Performance Period
- 2.4 Phase III - Operations/Maintenance, Repairs, Monitoring, and Measurement and Verification (M&V)
 - 2.4.1 Ownership and Responsibility for Systems and Equipment
 - 2.4.2 Maintenance Responsibilities
 - 2.4.3 Scheduled Maintenance
 - 2.4.4 Unscheduled Repairs
 - 2.4.5 Measurement and Verification (M&V) Responsibilities
 - 2.4.6 Government Provided Assistance

PART 3.0 TRAINING

PART 4.0 DEFINITIONS

1.0 GENERAL INFORMATION

1.1 Background: In compliance with The Energy Policy Act of 1992 (P.L. 102-486) and Executive Order 12902, the Air Force seeks to implement all proposals that have a 10 year or less payback as mandated by Title 10 USC 2865 by entering into an Energy Savings Performance (ESP) contract with a reputable Energy Services Company (ESCO) to finance, design, implement, monitor and maintain various energy conservation measures (ECMs). This Statement of Work, as part of an ESP contract, will provide the contract vehicle for implementing energy conservation measures (ECMs) that contribute to achieving mandated reductions in energy consumption. The ESP contractual arrangement is accomplished within the parameters of other federal contracting actions as authorized by Title 10 USC 2301, supplemented by Title 42 USC 8287 which specifically authorizes long-term contracts for energy conserving ESP initiatives. The ESP legislation requires the ESCO to finance ECMs and receive payment from the savings reflected in lower utility costs, avoided maintenance and other ancillary savings. Financing of ECMs installed at installations within Region One shall be accomplished by the ESP contractor; however, any and all cash incentive payments, ICP grants or other subsidies received by the ESCO as a result of implementing the ECMs at installations within Region One shall be credited to the ECM implementation costs prior to determining any payments to be made by the Government.

1.2 Contract Term: The term of this contract is for a period of 25 years.

1.3 Contracting Officer's Representative: The Contracting Officer's Representative (COR) shall be responsible for technical management, inspection and oversight, and coordinating the ESCO's interface in the selected facilities. This designation in no way authorizes anyone other than the Contracting Officer to commit the Government to changes in the terms of this contract. The Contracting Officer's Representative will be identified on individual task orders.

1.4 Contractor Employees: Within 15 days after award, the ESCO shall provide to the Contracting Officer the name(s), address(es), and telephone number(s) of contractor personnel to be contacted in case of emergency, and shall thereafter maintain this information current and up-to-date during the term of this contract. The designated points of contact shall be available 24 hours per day, 7 days per week, for the duration of the task order.

In accordance with the "Superintendence By Contractor" clause of Section I, the Contractor shall designate the responsible supervisory person or persons authorized to act for the Contractor.

The Contractor shall furnish sufficient personnel to perform all work specified within the contract task order for implementing approved ECMs. All personnel shall be competent and well-qualified to perform required work. Contractor employees shall conduct themselves in a proper, efficient, courteous and professional manner and shall wear attire which is as neat and clean as practical for the assigned task. All ESCO or subcontractor employees working under this contract shall be identified by a distinctive uniform or a badge, name plate, emblem, or patch that identifies both the employer and the employee. Employee identification shall be attached in a prominent place above the waist on an outer garment.

The ESCO shall remove from the site any individual whose continued employment is deemed by the Contracting Officer to be contrary to the public interest or inconsistent with the best interests of national security.

No contract employee will be admitted to the work site unless the employee or employer furnishes satisfactory proof of United States citizenship, or, if an alien, residence within the United States is legal and the individual holds a valid work permit (green card).

Work may be required in restricted access areas. Such "Restricted Areas" will be identified by the Government in the tasking letter and/or the contract task order. Contractor personnel shall not enter restricted areas without the appropriate entry pass or a Government escort.

1.5 Access To Buildings: It shall be the ESCO's responsibility, through the COR, to obtain access to buildings and facilities and arrange for them to be opened and closed.

Keys may be issued to the ESCO; however, it shall be the ESCO's responsibility to arrange for adequate security of the buildings and facilities at the end of each work day.

The ESCO shall be responsible for the cost of replacing any keys that are lost by its employees or for the rekeying of all locks that fit the lost key. This may include multiple locks in a single facility or multiple locks in multiple facilities. The Contracting Officer will instruct the ESCO whether to replace the lost key, replace the lock, or to rekey the entire system as appropriate. The ESCO shall bear all costs to replace the key or lock, or to rekey the entire system. Similarly, the ESCO shall pay the cost of changing a combination if the Contracting Officer has reasonable cause to believe the combination has been compromised.

Subject to the availability of COR personnel and approval of the Contracting Officer, the contractor may schedule work after 4:00 PM Monday - Friday as to avoid conflicts with regularly scheduled Government activities.

1.5.1 Contractor Facility and Storage Area: Unless specifically authorized by contract task order, the Government will not provide on-site accommodations for a contractor office or storage area. When such areas are authorized by a task order, the contractor shall maintain them in compliance with part 2.3.2.8 of this section.

2.0 SCOPE: This effort will involve "turnkey" retrofit services which, in addition to financing, will include energy conservation audits, ECM designs, energy efficient equipment installation, and operations and maintenance services for most ECMs on a shared cost basis. The ESCO shall provide an estimated or projected savings for each proposed energy conservation measure which the Government chooses to implement. The Government will make monthly payments to the ESCO following ECM implementation in an amount consistent with Section H, Special Contract Provisions. This effort is a three phased program that consists of: (a) Phase I -

Preliminary Site Survey; (b) Phase II - Facility Energy Audit and Economic Analysis; (c) Phase III - ECM Implementation (design, engineering, equipment procurement, financing and installation) and Operations/Maintenance of the ECMs. Phase I and Phase II may be directed by letter and the work shall not be separately priced. A contract task order shall be issued to acquire Phase III work. This contract will provide the means for Air Force installations located in Florida, Georgia, Alabama, Tennessee, Mississippi, Louisiana to issue individual task orders (**DD Form 1155 or SF 1449**). Prior to issuing a contract task order for any facility, or group of facilities, the ESCO shall have completed Phase II actions on subject facilities.

The scope of this contract includes energy savings measures, including, but not restricted to electrical, gas, steam, water and coal which may be accomplished at Air Force installations/activities located within Region One, and in any facility or building for which these installations pay the utility bill. Energy conservation measures or efficiency improvements for energy consuming systems as well as infrastructure may be proposed by the ESCO for Government consideration and approval/disapproval. The Government will only consider proposals that have a 10 year or less simple payback as mandated by Title 10 USC 2865. It is not envisioned that energy system retrofits, facility construction, or energy system renovations or replacements, acquired through standard procurement procedures, using Congressionally appropriated funds, will be accomplished under this contract.

The selected ESCO may be required to perform energy efficiency improvements in military family housing and all other basewide facilities. The scope of this contract provides for the ESCO to perform a full range of energy services including, but are not limited to the following:

A. Technical and price proposals detailing comprehensive energy services for reduction of energy consumption or demand at a particular facility. Energy cost reductions may be obtained by either BTU reductions and/or dollar reductions, thus fuel conversions and demand reductions will be evaluated by the ESCO. Energy audits will be required to be performed by the contractor.

B. Design, acquisition, and installation of new equipment or modifications to existing equipment to improve the energy efficiency or reduce energy cost.

C. Operation, monitoring, maintenance and repair services, and training of Government personnel in use of new and/or modified equipment the ESCO has installed or modified.

The scope of this contract includes energy cost saving measures approved for implementation by the installation Civil Engineer and will be accomplished by a privately financed ESPC on installations in Region One using private/non-governmental financing as authorized by Title 42 USC 8287 and Title 10 USC 2865, Energy Savings Performance Contracting, for the duration of this contract. The ESCO shall furnish all labor, tools, equipment, and material necessary to identify potential energy efficiency improvements and to implement those approved for implementation. As an IDIQ contract there is no guarantee of future work under this contract. ESPC services available through contracts awarded by other federal agencies may be

used in lieu of this contract as may Utility sponsored Demand Side Management (DSM) agreements with local utility service providers. However, proposals resulting from Phase II work remain the property of the ESCO and shall not be used to solicit competitive proposals from other ESPC or DSM providers.

Some work may be required in restricted access areas. Such "Restricted Areas" will be identified by the Government in the tasking letter and/or the contract task order. Contractor personnel shall not enter restricted areas without the appropriate entry pass or a Government escort.

2.1 Phase I - Preliminary Site Survey: The Contracting Officer will provide the ESCO a prioritized listing of facilities to be evaluated for energy conservation opportunities. The Preliminary Site Survey will consist of identifying ECMs that, if implemented, will result in reduced energy consumption and costs for the installation. If requested by the ESCO, the Government will provide the following information, if available, for each facility being evaluated: facility use/function (i.e., administrative, warehouse, hangar, etc.), occupancy information, and descriptions of any recent changes in the heating, cooling, lighting, or other energy systems. If the contractor desires to conduct a physical site survey of any facility, prior arrangements shall be made with the COR. The ESCO shall evaluate the targeted facilities to determine if there is an opportunity to develop a "paid-from-savings" ECM and provide a brief summary report containing recommendations for each facility or group of facilities. Only those ECMs with a payback of ten (10) years or less will be considered for implementation. Based on the results of the preliminary survey, the ESCO shall prepare an estimate of the potential energy (e.g., BTU, Kwh, Kw, etc.) and cost (dollars) savings the Government could expect by implementing the recommended ECMs. If the Government and the ESCO mutually agree that Phase I work is unnecessary, the Government may direct the ESCO to proceed directly to Phase II.

2.1.1 Phase I Report: As required by Paragraph 2.1 above, the ESCO shall include recommended ECPs in the Phase I summary report. For each ECP recommended for a Phase II analysis, the report shall include an estimate of the savings that will be generated and the estimated implementation costs. Additionally, the report shall also provide an estimated net benefit to the Government which shall be equal to the estimated savings minus any costs or fees the ESCO intends to recover (i.e. debt service and maintenance, monitoring, measurement and verifications (M&V) fees, etc.). The estimated net benefit will be adjusted for recommended ECPs the Government chooses not to pursue.

2.1.2 Phase I Summary: The purpose of the preliminary site survey is to determine, quickly, in general terms, and with little cost to the ESCO, if a particular facility is a viable candidate for installation of one or more ECMs. The recommendations will provide the basis for the Government decision to proceed to Phase II and although brief, the summary report must support the recommendations.

2.1.3 Government Response to Phase I: The Government will, within reason, permit the ESCO to proceed with Phase II - Facility Energy Audits and Economic Analysis in those facilities with a favorable ESCO recommendation resulting from the Phase I survey; however, the ESCO shall not proceed to Phase II unless, and until, directed to do so by the Contracting Officer. The Government will notify the

ESCO of which ECPs to complete a Phase II - Facility Energy Audit and Economic Analysis and when to proceed with Phase II work. The Government will also advise the ESCO of any recommended ECPs in the Phase I report which the Government does not plan to implement.

2.2 Phase II - Facility Energy Audit and Economic Analysis: The Contracting Officer will issue a letter to the ESCO to include a prioritized listing of facilities in which the ESCO is to perform a Phase II - Facility Energy Audit and Economic Analysis. Upon receipt of notification to proceed into Phase II, the ESCO shall commence an energy audit and life-cycle-cost economic analysis for each approved ECP. The analysis shall specifically identify (with detailed specifications and drawings) the energy conserving/efficient equipment and other improvements to be provided. There will be no separate cost to the Government for Phase II work.

2.2.1 Phase II Taskings: In completing the Phase II - Facility Energy Audit and Economic Analysis the contractor shall:

- a. audit the existing mechanical, electrical, and control systems and the envelope of each facility;
- b. conduct an in-depth interview with the installation energy manager, engineers, maintenance, and operating personnel to assess the operating characteristics of existing energy systems and goals for system improvements;
- c. review Air Force plans for other non energy related capital improvements and renovations for inclusion in this analysis;
- d. structure terms for Government payment to ensure the Government receives the optimum benefit of any grants or utility incentive payments to reduce the ECM implementation costs; and,
- e. If, after evaluating all viable ECP opportunities, the ESCO determines none would meet minimum payback criteria, the ESCO shall immediately stop work on the Phase II audit or economic analysis for that facility, and notify the Contracting Officer. Upon verification by Government engineers, the Contracting Officer will instruct the contractor to discontinue the Phase II - Facility Energy Audit and Economic Analysis for the affected facilities with no further liability or obligations by either party.

2.2.2 Access to Facility Data: In completing a Phase II initiative, the contractor will, upon request, have access to all available data concerning: utility records; operating logs, occupancy information; description of any changes in the production process in the building or its heating, cooling, lighting or other energy requirements; descriptions of all major energy consuming or savings equipment in use, and a description of energy management procedures presently utilized. The ESCO shall consider this information when establishing the energy consumption baseline.

2.2.3 Phase II Report: Upon completion of Phase II - Facility Energy Audit and Economic Analysis, the ESCO shall provide the Government with an audit report identifying each proposed ECP. The

report shall include the following data for each ECP evaluated during Phase II: implementation costs; projected savings; a Saving to Investment Ratio (SIR) analysis; a detailed description of the post implementation services to be provided by ESCO. The data for each ECP shall be summed and presented as a total for the proposed ECM (task order) along with a financing proposal and payment schedule for the total ECM. The projected savings shall be accompanied by a net present value (NPV) analysis using discount rates taken from the then current edition of the Energy Prices and Discount Factors for Life-Cycle-Cost Analysis which is published as the annual supplement to the National Institute of Standards and Technology (NIST) Handbook 135. NOTE: All ESCO evaluated ECMs shall be addressed in the Phase II report, even if the ESCO is not recommending their implementation.

2.2.4 Report Format: The Government will consider the Phase II - Facility Energy Audit and Economic Analysis report as a proposal to accomplish the Phase III - ECM Implementation. To permit an accurate assessment of the proposal the contractor shall include the following exhibits for each ECM proposed:

EXHIBIT A - Synopsis of Proposed ECM and Technical Proposal: The introductory portion of this exhibit shall include a synopsis of the proposed ECM in sufficient detail to clearly demonstrate the proposed work and the resulting energy savings along with any impact on personnel comfort or productivity. This exhibit shall also provide a detailed technical proposal to include a summary analysis of all energy conserving or efficiency improvements that were evaluated, a statement of work to accomplish the recommended retrofits, equipment replacements or infrastructure improvements, a listing of proposed equipment, specifications of the equipment to be installed, preliminary site layout drawings, the proposed implementation schedule, a Project Management and Operations (M&O) Plan, and notification and request for a frequency assignment for contractor transceiver systems. If the ESCO intends to secure third party financing for any portion of the proposed Phase III work, the proposed financing agreement and any assignments shall be included in this Exhibit for Government review and approval. For purposes of determining the Government's termination liabilities pursuant to Exhibit K, a monthly recap of the outstanding loan principal will be provided. Such schedule shall project the sum total of all incentives to be received over the life of the ECM and the effect of such incentives upon the reduction of the ECM's principal investment. The M&O Plan and the Maintenance Plan shall include, as a minimum:

- The methods the contractor proposes to ensure the system reliability.
- The names and addresses of all companies the contractor proposes to have perform subcontract work during the Phase III - Implementation and Operation/Maintenance phase. This exhibit shall identify whether the subcontractor was previously approved or disapproved, by the contracting officer, for work under this contract, or is being submitted for first time approval. All subcontractors are subject to the approval of the contracting officer of the ordering installation.

EXHIBIT B - Calculations of Savings and Measurement and Verification Plan: This exhibit shall clearly and concisely identify projected energy savings in units of energy (e.g., Btu, kwh, kw, etc.) and the dollar amount of such energy savings. The total estimated savings shall clearly delineate between each category of savings i.e., energy and demand or water, avoided maintenance, and capital renewal savings (avoided maintenance and capital renewal savings are: (a) projects the base is committed to funding during the time of the proposed task order, and (b) service contracts as defined in Section B, paragraph 1.0). In addition to the ESCO's estimated savings, this Exhibit shall contain an amount the ESCO will guarantee in savings. This exhibit includes the projected sum total of all incentives (rebates, grants, etc.) to be received over the life of the ECM and the effect of such incentives upon the reduction of the contractor's investment. The ESCO will demonstrate by a Measurement and Verification (M&V) Plan how guaranteed savings will be validated.

EXHIBIT C - ESCO Compensation Format: This Exhibit details the amount and schedule of Government payments over the life of the delivery order. Using the Guaranteed Savings information from Exhibit B and the format shown in Figure C-1, this exhibit shall provide a proposed compensation schedule for each ECP/ECM. The ESCO may propose different guaranteed savings amounts and/or different sharing arrangements for each year of the delivery order. The ESCO has the option, unless otherwise specified by the government, to receive up to 100 percent of the guaranteed savings as payment for each ECM and/or combination of ECPs that make up an ECM. Based on the Guaranteed Savings amount the Government will make monthly payments to the ESCO, as set forth in Section H. Contractor payments will begin the month following the first full calendar month after acceptance of the completed energy conservation measure by the Government. Figure C-1 shall include, as an attachment, a complete breakdown of all costs proposed for the ECM. The Contractor shall complete Figure C-1, and the accompanying cost breakdown, for each building included in the proposal. This breakdown shall include, as a minimum, a breakdown of labor rates by base rate and applicable indirect expenses/savings (i.e., heating or cooling savings associated with lighting retrofits), and a list of materials and equipment with associated unit cost or price, quantity and extended cost/price. Breakdowns shall be provided by ECP, and shall be clearly traceable to ECP totals for each column. This exhibit shall also outline the proposed costs for maintenance services to be performed by the ESCO and any other payments that the parties may agree to include in the invoices of the monthly payments. The ESCO agrees to apply all monies received from rebates or grants to the Government's debt service on this contract. (The government will not be responsible for any agreement (i.e., leases, subcontracting agreement, etc.) made outside of the authority of this contract.)

EXHIBIT D - Buildings: This exhibit shall clearly identify each facility/building included in the report. Buildings shall be identified by: Building Number, Principle Function (Engineering, Contracting, Chapel, Supply, etc.), and Street Address.

EXHIBIT E - Baseline Data: This exhibit shall document the historical energy use of the building(s). The ESCO shall document how the baseline was developed. The data herein will be used for monthly calculations of Energy Dollar Savings as specified in Exhibit B.

EXHIBIT F - ESCO Post-Implementation Responsibilities: This exhibit shall outline the post-implementation actions the ESCO proposes to perform. The specific services to be performed by ESCO personnel shall include, but not be limited to, the following:

- Maintenance of ESCO-installed/owned equipment and systems as negotiated in each contract task order. This exhibit shall include a proposed schedule and cost for ESCO performed maintenance. In addition to the proposed maintenance schedule, this exhibit shall include the equipment manufacturer's recommended maintenance schedule for each energy system included in the proposed ECM;
- Measurement and Verification (M&V) services, in accordance with the negotiated M&V Plan as submitted in Exhibit B.
- Calculation of savings on a monthly basis and provide for an annual reconciliation of savings guaranteed by the ESCO and monthly payments made by the Government, and received by the ESCO during the previous twelve (12) months.
- Regular discussions with the COR or Base Energy Manager on optimizing energy savings from installed ECMs and other potential conservation opportunities and regular review of operating data recorded by the building automation system to assure proper equipment operation;
- Providing required periodic reports and analyses to the Government and attending meetings dealing with performance under this contract.
- Single point of contact (POC) for 24 hours a day service calls.

EXHIBIT G - Government Post-Implementation Responsibilities: This exhibit shall set forth those responsibilities the ESCO proposes the Government assume following ECM implementation. This shall include all actions expected of Government personnel to maintain and operate ESCO installed ECMs. Compliance with this exhibit, unless and to the extent it is altered during contract task order negotiations, shall relieve the Government of all liabilities in the event of system failure or if an ECM fails to achieve the estimated savings offered by the ESCO. Those items listed in this exhibit shall include any manufacturers recommendations and standard operating practice.

EXHIBIT H - Standards of Service: This exhibit shall clearly detail the impact of implementing each proposed ECP and the ECM as a whole. For example, what lighting level increases or decreases will occur with a proposed lighting retrofit. Lighting levels, heating, and cooling temperatures shall comply with the standards established by the latest edition of Code of Federal Regulations (41 C.F.R. Chapter 101), or local installation standards that implement 41 C.F.R. Chapter 101. Local standards will take precedence.

EXHIBIT I - Final Performance Tests: This exhibit shall outline performance testing procedures that are proposed for the Government acceptance testing, and shall identify who will conduct the testing. Each system to be tested will be identified with a cross-reference to the standard of performance the contractor proposes in EXHIBIT H.

EXHIBIT J - Equipment Availability and ECM Implementation Schedule: This exhibit shall clearly identify, by manufacturer and model number, what equipment is being proposed and the current availability of the equipment. The proposed installation schedule included in this exhibit must comply with the times the Government will make the facility available for the contractor to install each piece of equipment. Equipment that is accepted by the Government under this exhibit and under EXHIBIT A shall be considered approved by the Contracting Officer, no further request for approval is necessary. However, should the ESCO choose to install a make or model of equipment other than what is approved for EXHIBIT A or J, prior approval of the Contracting Officer is required. When requesting such approval, sufficient information regarding make and model, size, energy use, etc. shall be provided for Government engineering reviews.

EXHIBIT K - Termination or Buyout Costs: This exhibit shall include a proposed termination or buyout schedule for each contract task order being proposed should the Government choose to exercise this option at a future date. These costs shall represent the remaining balance of the Government payments to the ESCO shown by declining balance. For purposes of determining the Government's termination liabilities pursuant to Exhibit K, a monthly recap of the projected outstanding loan principal will be provided. In the event contract task orders are issued and ECMs installed, the Government will become liable for the following termination/buyout costs for such Task Orders:

a. An amount representing the unamortized principal of any ESCO or third party financing, plus any loan prepayment penalties. The dollar amount of such prepayment penalties shall be declared in this exhibit.

b. An amount payable to ESCO to reimburse payment of any incentives paid to the ESCO for the ECMs and any penalties imposed upon ESCO; alternately, the Government could assume ESCO's responsibilities and hold the ESCO harmless for any resulting claims. This exhibit shall be reaccomplished to reflect changes resulting from negotiations after submittal of the Phase II report.

NOTE: This is an Indefinite Delivery Indefinite Quantity (IDIQ) contract and as such there are no guarantees the Government will issue contract task orders in any amount at any time beyond the guaranteed minimum which will be awarded concurrent with contract award; however, it is the intent of the Government to take advantage of this contract to accomplish energy conservation and infrastructure modernization work, which may result in the issuance of contract task orders.

| BLDG(s) # | E C P # | Y E A R | ECP ANNUAL COST | ANNUAL GUARANTEED SAVINGS AMOUNT (GSA) | ESCO's ANNUAL SHARE OF GSA (percentage %) | ESCO's ANNUAL SHARE OF GSA (dollars \$) | GOV'T ANNUAL SHARE OF GSA (percentage %) | GOV'T ANNUAL SHARE OF GSA (dollars \$) |
|-----------------|------------------|------------------|--------------------|--|--|--|---|--|
| | 1 | 1 | | | | | | |
| | 1 | 2 | | | | | | |
| | 1 | 3 | | | | | | |
| | 1 | 4 | | | | | | |
| | 1 | 5 | | | | | | |
| | 1 | 6 | | | | | | |
| | 1 | 7 | | | | | | |
| | 1 | 8 | | | | | | |
| | 1 | 9 | | | | | | |
| | 1 | 10 | | | | | | |
| ECP #1 TOTAL | | | | | | | | |
| BLDG(s) # | 2 | 1 | | | | | | |
| | 2 | 2 | | | | | | |
| | 2 | 3 | | | | | | |
| | 2 | 4 | | | | | | |
| | 2 | 5 | | | | | | |
| | 2 | 6 | | | | | | |
| | 2 | 7 | | | | | | |
| | 2 | 8 | | | | | | |
| | 2 | 9 | | | | | | |
| | 2 | 10 | | | | | | |
| ECP #2 TOTAL | | | | | | | | |
| BLDG(s) # | 1 | 1 | | | | | | |
| | 1 | 2 | | | | | | |
| | 1 | 3 | | | | | | |
| | 1 | 4 | | | | | | |
| | 1 | 5 | | | | | | |
| | 1 | 6 | | | | | | |
| | 1 | 7 | | | | | | |
| | 1 | 8 | | | | | | |
| | 1 | 9 | | | | | | |
| | 1 | 10 | | | | | | |
| ECP TOTAL | | | | | | | | |
| BLDG(s) # | 2 | 1 | | | | | | |
| | 2 | 2 | | | | | | |
| | 2 | 3 | | | | | | |
| | 2 | 4 | | | | | | |
| | 2 | 5 | | | | | | |

| | | | | | | | |
|--|-----------|--|--|--|--|--|--|
| | ECM Total | | | | | | |
|--|-----------|--|--|--|--|--|--|

EXHIBIT L - Pre-Existing Equipment Inventory: This exhibit shall identify the current equipment to be replaced by the proposed ECM described in EXHIBIT A. Any addition or deletion of said equipment during the performance period/term of the contract task order will be compared to this list to determine the impact on the net energy consumption in the facility/buildings and its effect on the savings related to the overall task order.

EXHIBIT M - Subcontracting Plan: This exhibit shall set forth the ESCO's plan for subcontracting work on the proposed ECM. Each proposal and resulting contract task order will be evaluated and monitored for compliance with the subcontracting plan goals. The goals established in the subcontracting plan shall be applicable to each task order when practical. When the contractor considers subcontracting to be not practical for a given ECM, the rationale shall be fully explained in this exhibit and included in the proposal package upon submission to the contracting officer. (Reference FAR clause 52.219-9 and L-1003b of the RFP.)

EXHIBIT N - ECPs Evaluated - Not Recommended for Implementation: This exhibit shall provide a full explanation of all ECPs that were considered during Phase II, but not recommended for implementation.

NOTE: Because of the unique provisions of this contract that require the ESCO to identify, design, and implement energy conservation actions based largely on an economic analysis considering energy savings and ECM cost, it is absolutely essential that all ESCO/contractor proposals provide very detailed explanations of the energy baselining methodology and clear details on appropriate savings verification/validation (annual reconciliation) procedures.

2.2.5. Government Response to Phase II Report: Upon receipt of the Phase II - Facility Energy Audit and Economic Analysis Report, the Government will review the proposal for accuracy and potential benefits to decide if the ESCO will be allowed to proceed to Phase III - ECM Implementation. If the Government determines that a proposed ECM: 1) does not meet the Minimum Economic Criteria; 2) materially differs from the terms or conditions set forth in this work statement; or 3) is materially deficient, the report will be returned to the ESCO with written notification describing the differences or deficiencies. The ESCO shall correct the differences or deficiencies and submit a corrected report within thirty (30) days of receipt of said notification. This resubmission process may continue until a contract task order for Phase III work is issued, or the three-phased process is discontinued as provided herein. Conversely, the Government may award a contract task order after review of the Phase II report without further discussions or negotiations.

2.2.5.1. Rejection of Phase II Report Recommendations: The Government may choose not to proceed to Phase III - ECM Implementation for any, or all, of the proposed ECP(s) with no liability or obligations. Examples (this is not an all encompassing list) of why the Government may choose not to proceed to Phase III include:

- a. The Government and the ESCO/contractor cannot reach agreement on an energy consumption baseline and a M&V method for validating savings; or
- b. The proposed economic payback for the total ECM being proposed does not meet the 10 year payback criteria required on federal energy projects; or
- c. The proposed ECP/M is not reasonably practical and workable for the installation; the Government determines the ECP/M could be detrimental to the national defense mission or quality of life of the installation; or, if ECM implementation costs cannot be paid from savings generated by the ECM; or
- d. The status of the facility, or facilities, is such that it is not in the best interest of the Government to incur the investment liabilities for energy improvements. For example, the facility is scheduled for demolition or has a renovation or upgrade project that has been approved using appropriated funds.

2.3. Phase III - ECM Implementation and Operations/Maintenance: Whereas Phase I and Phase II work may be directed by letter, Phase III - ECM Implementation shall only commence upon the issuance of a contract task order by the Contracting Officer. Each task order will contain a detailed statement of work for proposed ECMs; however, the task order does not amend, modify or change any of the requirements of this statement of work or basic contract. In case of conflict between the terms of the task order and the basic contract, the terms of the contract shall control.

2.3.1. Contract Task Order: Each contract task order shall establish the specific terms and conditions for the ECM to be implemented, and the schedule for completing the implementation. The Government may, at its option accept the contractor's Phase II report without conducting further negotiations in which case the exhibits attached thereto shall be the accepted terms of the task order. If the Phase II report is amended or modified by negotiations, those amendments or modifications will be included in the task order and become the accepted terms and conditions for that single task order. Typically, the task order will contain the following exhibits:

- EXHIBIT A - Synopsis of Proposed ECM
- EXHIBIT B - Calculation of Savings
- EXHIBIT C - ESCO Compensation Format

EXHIBIT D - Buildings
EXHIBIT E - Baseline Data
EXHIBIT F - ESCO Post-Implementation Responsibilities
EXHIBIT G - Government Post -Implementation Responsibilities
EXHIBIT H - Standards of Service
EXHIBIT I - Final Performance Tests
EXHIBIT J - Equipment Availability and ECM Implementation Schedule
EXHIBIT K - Termination or Buyout Costs
EXHIBIT L - Pre-Existing Equipment Inventory
EXHIBIT M - Subcontracting Plan
EXHIBIT N - ECPs Evaluated - Not Recommended for Implementation

Upon receiving a contract task order, the ESCO shall design, construct, purchase and install the equipment, and complete the ECM as specified in Exhibit A of the Phase II report, or as negotiated in the task order.

2.3.1.1. Infrastructure Conditions:

The government is not aware of every location of polychlorinated biphenyl (PCB) containing equipment, or every location of asbestos or other hazardous substance, as defined in applicable federal, state, or local laws, in any facility.

a. Known areas/facilities containing hazardous substances are identified in the installation Hazardous Waste Management Plan. The Contractor shall be responsible for the removal and disposal of hazardous substances if implementation of the ECM disturbs the hazardous substances in any areas/facilities known and identified to contain such substances, at its own expense, in accordance with paragraphs A-E below.

b. If the contractor discovers hazardous substances not previously identified after performance begins, the contractor shall immediately suspend that portion of work and notify the Contracting Officer. Under such circumstances the Government reserves the right to:

(1) remove and dispose of all hazardous substances, or

(2) negotiate with the ESCO for the removal and disposal under this contract and make adjustments to guaranteed savings and payment schedule as necessary.

The Government will make its best efforts to ensure that its identification, removal, and disposal responsibilities shall be performed in a manner so as to not unreasonably interfere with the performance of the contract.

A. This project may require the removal and disposal of asbestos-contaminated materials (ACM).

B. ACM Removal: ACM identification and removal, when required above, is federally regulated and requires special handling and disposal procedures. The Contractor will provide and coordinate asbestos removal in accordance with all current federal, state, and local regulations. If the Contractor suspects the presence of any ACM not identified as such by this contract, but is required to be disturbed to perform the contract work, inform the Contracting Officer at once. The Contracting Officer will then determine whether removal of the questionable material is required.

C. Coordination and Scheduling: Perform the contract work as required to minimize facility downtime. Notify the Contracting Officer prior to cutting, drilling, or otherwise disturbing any suspect ACM. The Contractor will provide assistance as required.

D. Liability: The Contractor shall be liable to the government for all costs incurred to clean up, handle, remove, and dispose of any ACM resulting from the Contractor's actions that do not comply with the requirements of this contract. The Contractor shall be liable for any and all damages incurred by the Government due to Contractor negligence or failure to comply with any federal or state regulations or with any contract terms.

E. If the Contractor observes soil discoloration and/or odor or any other anomaly, they shall stop work and contact the Contracting Officer immediately.

The ESCO shall be responsible for the removal, but not disposal, of all hazardous substances encountered in the ECM that do not require special handling. Examples of hazardous substances that may be encountered are, but not limited to, ballasts, lamps, and fixtures. All hazardous substances removed by the ESCO that do not require special handling shall be accounted for by the ESCO and placed in a location designated by the Government in the vicinity of the job site.

2.3.2. Phase III - ECM Implementation Performance Period: Each contract task order shall establish a date when all ECM implementation work will be completed, and unless modified by the Contracting Officer, will be the date the Government expects energy (Btu and energy costs) and other savings to begin accruing to the task order.

2.3.2.1. Inspection and Acceptance: All work will be subject to inspection by Government personnel as provided in Section E. Day-to-day inspections will be accomplished by an assigned Government inspector. Final testing and acceptance may be accomplished by a team of inspectors. The ESCO shall use its best efforts to ensure completion of each contract task order, on or before, the date specified. At the appointed time for final acceptance of a task order, the ESCO, subcontractor, or equipment installer shall fully demonstrate to the final

inspection team that all retrofits and equipment are in proper working order and functioning as designed.

2.3.2.2. Work Schedule: The ESCO or qualified subcontractors will design and perform all Phase III - ECM Implementations. At least 14 days prior to starting the actual demolition or installation of equipment, the ESCO shall submit, for Contracting Officer approval, a proposed progress/work flow schedule for completing the entire ECM and a proposed daily work schedule. The proposed progress schedule shall be completed in accordance with Section I, Contract Clause, Clause 52.236-15, entitled "Schedules for Construction Contracts", and provides that once construction begins, work shall continue with a logical work flow to ensure completion in minimal time. Also, the ESCO shall submit, for approval, a daily work hour schedule that provides for minimal disruption of Government operations, which may require ESCO or subcontractor work at night, weekends, or holidays. Work will not be phased or fragmented so as to permit hazards of any kind in the work areas of Government personnel, nor will work normally be scheduled so that heating or air conditioning systems are not available during normal heating and cooling seasons. No work will commence until the work schedule has been approved.

2.3.2.3. Work Clearance (Construction/Digging/Welding Permits): It is possible that implementation of some ECMs will require digging, trenching, or excavation work. No digging, trenching, excavation, or other site preparation work will be accomplished until applicable Civil Engineer Work Clearance Permits, AF Form 103, have been completed. Additionally, the ESCO will coordinate all welding in advance with the COR and follow all base regulations regarding the operation of welding equipment and notification of the Base Fire Department. The installation Energy Management office will assist the contractor when necessary in securing these permits and coordinating with the fire department. The ESCO, as prime contractor, shall request all permits.

2.3.2.4. Equipment Measurements and Frequencies: All ECMs implemented by contract task order will have been previously proposed by the ESCO in the Phase II report; therefore, the ESCO shall verify the accuracy of all measurements and the visual condition of all equipment and adjoining infrastructure. Electronic transceiver systems must not interfere with local frequencies and shall not be activated prior to approval of the operating frequency by the installation frequency monitor.

2.3.2.5. Continued Use of Facilities: It is anticipated that all facilities will continue Government operations during ESCO retrofits or ECM work; therefore, the ESCO must schedule work so as to cause minimal disruption to the Government workforce. If necessary, the ESCO will schedule work at times other than normal or peak duty hours (i.e. nights and weekends). When working nights, weekends, and holidays, the installation team shall remove all construction debris, clean the area, and return all furniture that was moved to accommodate work crews,

before the arrival of Government employees. Contract work crews will not be allowed to work when Government employees are present, if doing so would create a hazardous environment.

2.3.2.6. Disposal of Materials: All items removed from a facility under this contract, which retain no inherent monetary value, and are not designated for reuse by the Government, shall be considered as scrap. Scrap materials become the property of the ESCO and shall be removed from the site by the ESCO or subcontractor, at no additional expense to the Government (cost of disposal should be considered in the Phase II economic analysis or during Phase III negotiations) and disposed of off base and in such manner that meets all federal, state, and local environmental regulations. Government containers shall not be used for the disposal of ESCO scrap. The Government may, at its discretion, require certain equipment be delivered and turned in to the Government storage facility located on the installation for reuse at a later date. All refrigerants removed from equipment will be collected and turned over to the Government per local refrigerant management plans.

Notwithstanding the foregoing, title to hazardous substances shall remain with the Government. It shall be the responsibility of the Contractor, acting as a construction manager for the Government, to assist the Government in the proper removal of hazardous substances as outlined herein. The ESCO will have no responsibility for disposing of any hazardous substance. However, hazardous substances, such as PCB-containing ballasts, fluorescent lamps and any other hazardous substance, with the exception of asbestos or other special handling hazardous substances, will be removed, packaged, and labeled by the contractor and returned to the Government for disposal.

2.3.2.7. Contractor Provided Materials and Equipment: All ESCO provided materials and equipment that are installed under this contract shall be new. Used, rebuilt, or refurbished materials or equipment will not be allowed. All proposed materials and equipment shall be identified in the Phase II report. Materials and equipment that are identified in the Phase II report will be considered approved by the Government unless determined otherwise during Phase II negotiations.

2.3.2.7.1. Codes and Standards: All contractor work shall conform to the requirements of this contract and to the appropriate Local, State and Federal/National code for technology/system being implemented. All work must conform to local installation facility standards. All products and equipment provided by the contractor shall be Underwriters Laboratory or Factory Mutual listed or equal. All codes and standards requirements shall be based on the latest edition of applicable Local, State, and Federal codes at the time of the award of each contract task order.

2.3.2.7.2. Facility and Equipment Disposition: The facilities, equipment, material, tools, software, licenses and other items used by the contractor, or that are required to operate and maintain the systems provided and installed under this contract as listed in each task order, shall

become the property of the Government at the end of the task order term at no additional cost to the Government, unless otherwise stated in the contract task order.

2.3.2.7.3. Environmental Protection: The contractor shall perform all work in such a manner as to minimize the pollution of air, water, or soil, and to control noise and dust within reasonable limits in accordance with all applicable Federal, State, and Local codes and regulations.

2.3.2.7.4. References: The publications listed below form a part of this work statement and are to be followed in completing both Phase II and Phase III work.

| <u>PUBLICATION NO.</u> | <u>DATE</u> | <u>TITLE</u> |
|------------------------|-------------|---|
| AFIND 17 | Jul 97 | Index of Air Force Occupational Safety and Health (OSHA) Standards, and National Institute for Occupational Safety and Health (NIOSH) Publications |

| | | |
|-----------------------|-----------|---|
| AFR 125-14 | | Motor Vehicle Traffic Supervision (to be replaced with AFI 31-204) |
| AFI 32-7042 | May 94 | Solid and Hazardous Waste Compliance |
| AFI 32-7045 | Apr 94 | Environmental Compliance Assessment and Management Program |
| AFI 64-106 | Mar 94 | Air Force Industrial Labor Relations Activities |
| AFI 91-301 | Jun 96 | Safety, Fire Protection, and Health (AFOSH) Program |
| DOD 5500.7-R | Mar 93 | Joint Ethics Regulation |
| Public Law 97-214 | | Disposal of Recyclable Material (10 U.S.C. 2577) |
| Executive Order 12873 | 20 Oct 93 | Federal Acquisition, Recycling & Waste Prevention |
| | 28 Sep 93 | Deputy Under Secretary of Defense (ES) Memorandum |
| | Jan 93 | Chief of Staff of the Air Force/Secretary of the Air Force Action Memorandum, Air Pollution Prevention |
| Force Program | | |

2.3.2.7.5. Fire and Ambulance Jurisdiction: The installation shall have jurisdiction over and shall be principally responsible for fire prevention inspections and fire fighting at any on-base contractor facility. The contractor shall provide keys to the Fire Marshal for access into any on-base fenced area, building, or structure. The keys shall be labeled or permanently tagged for their respective locks and shall be replaced within one day if the lock is changed. The

installation Fire Chief shall be the authority having jurisdiction in all fire prevention, fire protection, and fire fighting related manners. Ambulance service will be provided by the installation on a reimbursable basis.

2.3.2.8. Daily Cleanup: Contractor personnel shall at all times keep the premises, to include any and all designated storage areas, free from accumulations of waste materials, rubbish, or construction debris. At the completion of each workday, all cartons, waste materials, rubbish, construction debris, wrapping, etc., shall be removed from the work area.

2.3.2.9. Engineering Drawings: Upon completion of each system installation and prior to final acceptance, the contractor shall provide a complete set of record drawings to the Contracting Officer. Drawings shall be submitted on computer disks using Computer Aided Design (CAD) and be of sufficient detail to accurately reflect the location of all ECM work. Drawings shall be submitted in a CAD software version and format designated by the COR. Plug-in replacements, such as lighting retrofits, energy-efficient motors, etc., will not require such drawings. Updates to Government provided drawings are acceptable as long as they reflect all changes that resulted from the ECM.

2.3.2.10. Warranties and Operating Manuals: Upon completion of each system installation and prior to final acceptance, the ESCO will provide to the Government any manufacturer's warranty for equipment, parts, or systems installed as part of the ECM for which the Government will assume maintenance responsibilities. Additionally, one original copy of the manufacturer's owners/operations manuals, one original copy of the manufacturers maintenance manual that includes illustrated parts breakdown and a parts number listing for all system components shall be provided for such equipment or system before final acceptance by the Government. The ESCO will maintain and administer warranties relating to equipment, parts or systems that will be maintained by the ESCO or a subcontractor.

2.3.2.11. ESCO Provided Maintenance: For equipment that is maintained by the ESCO, there shall be a notice, on or near each piece of equipment, that directs Government and/or other contractor personnel not to perform repair work on the equipment, but to contact the COR. It shall provide the name and phone number of the person to contact for repairs. The information on these maintenance tags shall be current at all times.

2.3.2.12. Interruption of Utility Services: Neither the ESCO, nor any subcontractor, shall shut off any utility service to any facility without prior coordination and approval of the COR. Request for an interruption of utility service shall be made not less than five days in advance of planned interruption. The ESCO will coordinate all schedule utility outages with the COR in advance of scheduled outage. For those utility outages accomplished to accommodate the ESCO, it shall be the responsibility of the ESCO to ensure full service is returned to all affected facilities.

The Government will provide utility services for ESCO personnel use in base facilities. The Government may not be held responsible for interruptions of utility services and will not be liable for contractor delays, damages, or increased costs, occasioned by any such interruption of services.

2.3.2.13. Phase III - ECM Implementation Completion: Acceptance by the Government shall deem the completion of ECM implementation portion of the task order with immediate transition to Phase III - Operations/Maintenance portion of the work as outlined in the contract task order. Upon completion of Phase III - Implementation, the Government will commence monthly payments as outlined in the contract task order.

2.3.2.14. Acceptance Testing of ESCO Installed Equipment: The Government will verify equipment performance at time of final acceptance and as determined necessary by the Government.

2.3.2.15. Monthly Energy Savings: Each task order will contain an "Exhibit B" detailing how energy savings are calculated, as determined for each task order; i.e., computer modeling, metering or utility bill reconciliation. In the later case, each month, within ten days after receipt of the monthly utility bill, the ESCO shall present the COR a Statement of Energy Savings with calculations of energy savings that occurred during that billing cycle.

2.4. Phase III - Operations/Maintenance, Repairs, Monitoring, and Measurement and Verification (M&V). The ESCO responsibilities will be established in Exhibit F of each task order. Exhibit F of the Phase II report shall detail responsibilities of the ESCO during the contract period that remains after completion of Phase III - ECM Implementation and provide the monthly service charge for accomplishing those responsibilities. Phase III Operations/Maintenance work is subject to the Service Contract Act and these responsibilities begin immediately upon acceptance of the Phase III installation. Payment for Operations/Maintenance work will begin the month following acceptance of the Phase III - ECM Implementation installation by the Government, and continue until task order completion, unless an earlier completion date is agreed upon.

2.4.1 Ownership and Responsibility for Systems and Equipment:

a. Unless relieved of ownership responsibilities by the Government, the ESCO shall at all times during the term of the task order have full ownership responsibilities of the ESCO-furnished systems and equipment. The contractor may modify, replace, or change the systems and equipment during the term of the task order from that originally approved. However, any proposed modification, replacement, or change shall require notification and coordination with the COR and the approval of the Contracting Officer. Any such modification, replacement, or change of equipment shall be performed at no cost to the Government, unless prior approval is

obtained. All equipment installed by the contractor at the installation is and remains the property of the contractor or the contractor financing party (e.g., a third party lessor) during the contract term (See Section H, Protection of Lien Holder Interest). The contractor shall submit the name of the proposed lessor who would take title to the ECMs and equipment in the contractor's behalf to the Contracting Officer for review and approval; such approval shall not be unreasonably withheld. Title to all systems and equipment, not earlier vested to the Government, shall vest in the Government upon completion of the task order.

b. The Government reserves the right to relieve the contractor of ownership and responsibility for energy savings for retrofit systems and equipment when it is in the best interest of the Government.

2.4.2. Maintenance Responsibilities: The ESCO shall perform maintenance responsibilities as outlined in the contract task order. Typically they will include all scheduled or preventative maintenance to maintain or enhance equipment efficiency as well as unscheduled maintenance or repair work. The ESCO or maintenance subcontractor shall establish and maintain a complete file of maintenance records for each ECM. Those records shall be available for Government inspection. The ESCO shall provide the Government with all maintenance schedules.

2.4.3. Scheduled Maintenance: Contractor personnel will contact the COR to schedule access to facilities in order to perform scheduled maintenance. Scheduled maintenance will normally occur during regular working hours. However, if equipment or system shut-down is planned, it will normally be scheduled for nights, weekends, or holidays.

2.4.4. Unscheduled Repairs: The Government will notify the ESCO of equipment or system breakdown and provide the priority of the repairs.

2.4.4.1. Emergency and Urgent Repairs: For repairs deemed "emergency" by the Government; meaning endangerment to life or property, the ESCO shall have repair personnel on-site within 2 hours. For repairs deemed "urgent" by the Government (meaning disruption of the Government workforce), the ESCO shall have repair personnel on-site within 4 hours. Repair work for both "emergency" and "urgent" repairs shall continue until completed, or the COR determines the repairs cannot be completed but the priority is reduced to routine. The Government reserves the right to take the actions necessary to protect life or property, or prevent disruption of the Government workforce in the absence of ESCO personnel. Government actions will normally not extend to alleviating or correcting the problem; however, the Government reserves the right to make the necessary repairs to correct urgent or emergency situations. The costs for such repairs shall be withheld from the next monthly payment to the ESCO. Disagreements over such withholdings shall be resolved under the Disputes provisions of this contract.

2.4.4.2. For repairs deemed routine by the Government, the ESCO shall have repair personnel on-site within 72 hours. Routine repairs shall be completed within 30 days of initial notification. Repair priorities may be upgraded by the Government from routine to urgent or emergency, if warranted by changing conditions. The ESCO shall be liable for payment of damages for losses resulting from a negligent failure to convert urgent or emergency work into a routine priority within 8 hours after arrival on site. For routine repairs, the Government may at its option, complete, or have completed, such repairs after waiting 30 days for ESCO personnel to complete the work. The costs for such repairs shall be withheld from the next monthly payment to the ESCO. Disagreements over such withholdings shall be resolved under the Disputes provisions of this contract.

2.4.5. Measurement & Verification (M&V) Responsibilities: The contractor's M&V responsibilities, and the methods that will be used to verify actual savings shall be established in each contract task order. If multiple methods are used, the applicable energy technologies for each M&V methodology shall be identified in the task order.

2.4.6 Government Provided Assistance: While it is mutually agreed and understood the Contractor retains the sole responsibility for the maintenance and performance of equipment that the Contractor has agreed to maintain for its account, the Government agrees to assist as in its best interests, to avoid energy demand spikes, a demand peak or such other event that would be detrimental to the overall mission. Hence, it is agreed that the Government has sole discretion to act to assist the Contractor, if so requested, in the example types of activities as follows:

- a. Reset hand-off automatic switches;
- b. Hand start engine/generator sets upon request by the Contractor, should the auto start equipment fail;
- c. Override equipment start-stops schedules should Contractor not be able to perform such tasks via remote modem monitoring;
- d. Other such actions as requested and expressly specified for the mutual benefit of the Contractor and the Government under this agreement, provided that no variable cost would accrue to the Government.
- e. The Government does not guarantee that it will in fact provide the assistance requested. The Government will evaluate each request and provide the assistance as practicable and when in the Government's best interest.

In all such cases where Government intervention is undertaken at the request of the Contractor, the Contractor agrees to hold harmless and to indemnify the Government for any liability that may be incurred for damages to the Contractor's equipment or lost savings. No action or inaction taken by the Government under this paragraph will be subject to the Disputes Clause, FAR 52.233-1.

3.0. TRAINING: The ESCO or subcontractors shall provide equipment operation training for up to four Government personnel before the Government assumes maintenance responsibilities. For those ECMs which the Government will maintain immediately following completion of the Phase III - ECM Implementation installation portion of the work, this training will occur before the acceptance inspection. For those ECMs which the ESCO has maintenance responsibilities, this training will occur at completion of the contractor's performance period, but before the Government assumes maintenance responsibilities. Training plans shall be prepared and given to the Government upon completion of each training session.

4.0. DEFINITIONS: As used throughout this contract, the following terms have the meanings set forth below:

4.1. BASEWIDE, is defined as meaning all types of facilities for which a base is assigned energy management, maintenance and reporting responsibilities. This includes, but is not limited to: clinics and medical complex facilities, Morale, Welfare and Recreation (MWR) facilities, industrial, administrative, warehouse, aircraft hangers, chapels, dormitories and Military Family Housing (MFH).

4.2. CONTRACTOR. The term Contractor as used herein refers to both the ESCO as prime contractor, and any subcontractors. The ESCO shall be responsible for insuring that his subcontractors comply with the provisions of this contract.

4.3. ESCO or CONTRACTOR REPRESENTATIVE. A foreman, superintendent, or manager assigned in accordance with the contract clause entitled, '*Superintendence by Contractor*' (FAR 52.236-6).

4.4. CONTRACTING OFFICER (CO). Person(s) with the authority to enter into, administer, and/or terminate contracts.

4.5. CONTRACTING OFFICER REPRESENTATIVE (COR). Person(s) who works closely with the CO in the acquisition and administration of contracts and assumes certain functions delegated by the CO.

4.6. ENERGY CONSERVATION MEASURE (ECM). An initiative to improve the energy efficiency of a facility or group of facilities. For purposes of this contract a ECM is equivalent to

a contract task order which may consist of a single ECP or multiple ECPs. ECMs shall not exceed a ten-year simple payback.

4.7. **ENERGY CONSERVATION PROJECT (ECP).** A project to retrofit or replace a single energy consuming system i.e., exit lighting, warehouse lighting, office lighting, central heating/cooling, office cooling, etc. ECPs may be combined to form an energy conservation measure.

4.8. **TEN-YEAR PAYBACK:** A ten-year simple payback is defined as the contractor's capital investment cost divided by the annual guaranteed savings.

4.9 **PROCURING CONTRACTING OFFICER (PCO).** A person with authority to enter into, administer, and/or terminate contracts and make related determinations and findings.

4.10. Where "as directed," "as required," "as permitted," "approval," "acceptance" or words of similar import are used, it shall be understood that direction, requirement, permission, approval or acceptance of the CO is intended unless stated otherwise.